1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS FOR MONTGOMERY COUNTY	
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5	x :	
6	PETITION OF TWIN FARMS CLUB, INC. : Case No. S-2818 AND T-MOBILE NORTHEAST, LLC : OZAH No. 12-01	
7	AND 1-MOBILE NORTHEAST, LLC . OZAH NO. 12-01 :	
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10	The primer is the above outiled matter was held on	
11	A hearing in the above-entitled matter was held on	
12	June 24, 2011, commencing at 9:30 a.m., at the Council Office	
13	Building, Davidson Memorial Hearing Room, 2nd Floor, 100	
14	Maryland Avenue, Room 200, Rockville, Maryland 20850 before:	
15	Maryiana Avenae, Room 200, Rochville, Maryiana 20000 Belore	
16	Tammy Citara-Manis, Hearing Examiner	
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A P P E A R A N C E S

<u> </u>	age
ON BEHALF OF THE PETITIONER:	
Ed Donohue, Esq. Donohue & Stearns, PLC 801 North Fairfax Street, Suite 209 Alexandria, Virginia 22314	
Justin Severson Network Building & Consulting, LLC. 7380 Coca Cola Drive, Suite 106 Hanover, Maryland 21076	18
Curtis Jews 10250 Baltimore Avenue Beltsville, Maryland 20705	75
Camille Shabshab Entrex Communication Services, Inc. 6600 Rockledge Drive, Suite 550 Bethesda, Maryland 20817	108
Nick Lemberos	147
13602 Colfair Drive Silver Spring, Maryland 20904	
Michael Badrian 13604 Hobart Drive Silver Spring, Maryland 20904	152
John Maloney 12527 Heurich Road Silver Spring, Maryland 20902	156
Janice Hylton 1522 Ivystone Court Silver Spring, Maryland 20904	164
Jay Hagler 1325 Crockete Lane Silver Spring, Maryland 20904	171

- 1 PROCEEDINGS
- 2 EXAMINER: Okay. Give me a moment. Okay. Good
- 3 morning everybody. Okay. Okay. Is everybody ready to
- 4 begin? Is Court Reporter ready?
- 5 COURT REPORTER: Yes.
- 6 EXAMINER: Okay. This is a public hearing in the
- 7 matter of Twin Farms Club, Inc. and T-Mobile Northwest, LLC,
- 8 Board of Appeals S-2818 and OZAH 12-01, a petition for a
- 9 special exception under Code Section 51.G.2.58. Petition
- 10 seeks a special exception to construct unmanned wireless
- 11 telecommunications facility on a 120 foot tall mounted pole,
- 12 and associated equipment area on Lot N-806 located at 1200
- 13 Fairland Road, Silver Spring, Maryland. The site is owned,
- 14 man-owned, by co-applicant Twin Farms Club, Inc. The
- 15 subject site is in our 200 zone which permits
- 16 telecommunication facilities by special exception. The
- 17 property's legal tax number is 0500280520. This case will
- 18 be decided by the Board Of Appeals in conjunction with a
- 19 request for an administrative modification of the existing
- 20 special exception in case S-309. Is that --
- 21 MR. DONOHUE: I believe that's correct.
- 22 EXAMINER: Okay. CBA-1280 and CBA-605 to permit
- 23 the location of the telecommunication facility on its
- 24 property. This hearing is conducted on behalf of the Board
- 25 of Appeals. My name is Tammy Citara-Manis. I'm the hearing

1 examiner which means I will take evidence, and I will write

- 2 a report and recommendation to the Board of Appeals which
- 3 will make the decisions. Mine is just a, a report and
- 4 recommendation. Will the parties identify themselves for
- 5 the record, please?
- 6 MR. DONOHUE: Good morning, Madam Chairman. My
- 7 name's Ed Donohue, Counsel for the applicant, T-Mobile.
- 8 EXAMINER: Okay. I see we have a number of people
- 9 in the audience. Is there anybody in the audience who is
- 10 not represented by petitioner or is going to be called on
- 11 behalf of petitioner? A few is here to testify in support
- 12 and in opposition? We'll do the support first that's not
- 13 represented by Mr. Donohue? Is everybody --
- 14 UNKNOWN MALE 2: Speak up.
- 15 MR. HAGLER: What does that mean? Yes.
- 16 EXAMINER: Well, Id --
- MR. HAGLER: Yes. We'd like to speak. Yes. Yes.
- 18 I'm sorry.
- 19 EXAMINER: Are you speaking --
- 20 MR. HAGLER: I'm speaking on behalf of Twin Farms.
- 21 I'm the board chairman. So, I will.
- 22 EXAMINER: Is he a witness you are calling?
- MR. DONOHUE: No. He's a support.
- 24 EXAMINER: Okay. Okay.
- 25 MR. HAGLER: So, I would like to speak in, anyone

- 1 else want to speak. We can.
- 2 EXAMINER: Now, if there's, there's a sign in
- 3 sheet. Are you signed in on the sign in sheet?
- 4 MR. HAGLER: Yes. I am signed in and who else
- 5 would like to --
- 6 EXAMINER: Okay. So, one of you identify
- 7 yourself. You can stay in there because obviously not
- 8 enough room for everybody up here so, but if you could just
- 9 identify yourself and when we get to the point where I will
- 10 ask for anybody who wants to speak in support of then I will
- 11 swear you in and give you that opportunity. So, if you
- 12 could just identify yourself for me.
- MR. HAGLER: Again, it's Jay Hagler, H-A-G-L-E-R.
- 14 EXAMINER: Okay. Why don't you state, just state
- 15 your address as well.
- MR. HAGLER: Oh. 1325 Crockete Lane.
- 17 EXAMINER: Okay.
- 18 MR. HAGLER: In Silver Spring.
- 19 EXAMINER: And who else wants --
- MR. LEMBEROS: Nick Lemberos, L-E-M-B-E-R-O-S,
- 21 13602 Colfair Drive.
- 22 EXAMINER: Colfair?
- MR. LEMBEROS: Colfair. One word.
- 24 EXAMINER: Okay. And who else wishes to talk?
- 25 MR. BADRIAN: Michael Badrian, B-A-D-R-I-A-N.

- 1 EXAMINER: And your address?
- 2 MR. BADRIAN: 13604 Hobart Drive.
- 3 EXAMINER: Okay. And just for clarification, Mr.
- 4 Donohue. I know that they're on your presubmission hearing
- 5 witness list. You had Mr. Hagler?
- 6 MR. DONOHUE: We did.
- 7 EXAMINER: Okay.
- 8 MR. DONOHUE: Our thought was that we would
- 9 present our case which entails the civil engineer, the
- 10 RF engineer, et cetera, and have the, the swim club speak on
- 11 its own as supporters.
- 12 EXAMINER: Okay.
- MR. DONOHUE: If that's all right.
- 14 EXAMINER: The only problem that I see in terms of
- 15 him speaking on behalf of a group is didn't comply with the
- 16 10 day notice that he was complying, he was speaking on the
- 17 behalf as opposed to being a witness for you.
- MR. DONOHUE: Uh-huh.
- 19 EXAMINER: You're going to be speaking on behalf
- 20 of a group or on your own?
- 21 MR. HAGLER: I plan on speaking on behalf of the
- 22 membership of Twin Falls.
- 23 EXAMINER: Okay. Well, when we get to your
- 24 testimony, we'll talk about the authorization to do that and
- 25 --

- 1 MR. HAGLER: Right. Yes, ma'am.
- 2 EXAMINER: And of course, if there's no opposition
- 3 but if there is opposition to you speaking on behalf of a
- 4 group without giving, sending me the, you needed to have
- 5 sent in two copies of your statement of what you intended to
- 6 say on behalf of the group. Okay. So, we have the
- 7 supporters.
- 8 MR. MALONEY: I'll add my name, John Maloney.
- 9 EXAMINER: John Maloney. Okay. Thank you. And
- 10 your address:
- 11 MR. MALONEY: 12527 Heurich, H-E-U-R-I-C-H, Road,
- 12 Silver Spring. 20902.
- 13 EXAMINER: Okay. And it's really good that
- 14 everybody's spelling their names because this is being
- 15 recorded and the, the Court Reporter certainly appreciates
- 16 knowing how to spell everybody's name. Okay. How about
- 17 anybody, is there anybody here in opposition to this
- 18 petition? Okay. Seeing no opposition in the audience, I
- 19 know we have at least one letter of opposition in the record
- 20 but the person, there's nobody here has identified themself
- 21 as in opposition that wants to present or testify today.
- 22 So, it looks like you're by yourself, Mr. Donohue, at the
- 23 counsel table.
- MR. DONOHUE: Well, maybe I'll call some friends
- 25 up here and see if we can get something going.

- 1 EXAMINER: Yeah. I'm sure.
- 2 MR. DONOHUE: I have no preliminary matters, Madam
- 3 Chair.
- 4 EXAMINER: Well, I've got enough so I have to, but
- 5 --
- 6 MR. DONOHUE: Okay.
- 7 EXAMINER: I do have a few preliminary matters
- 8 that I, let me go through and explain the proceedings for
- 9 the audience who might not know exactly how this is going to
- 10 go. This is a quasi-judicial hearing. These proceedings
- 11 are a combination of formality and informality. We've all
- 12 seen "courtroom". It's not as formal as a courtroom.
- 13 However, we do share some similarities in that one, it is
- 14 being recorded. Everything you say will be under oath.
- 15 There will be a transcript as Mr. Donohue just started to
- 16 mention preliminary matters. We'll deal with preliminary
- 17 matters first. Petitioner will make their presentation.
- 18 Present witnesses and documents. There's no opposition. If
- 19 there was opposition, there would be an ability to cross-
- 20 examine any witnesses that petitioner puts on. Also, there
- 21 being no opposition, there's, they would have been able to
- 22 put on a case but that's, unless someone changes their mind.
- 23 But, anybody who testifies, obviously, is, will be under
- 24 oath. Cross-examination is allowed. The rules of evidence
- 25 are a little bit more relaxed in that certain types of

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1 hearsay, if otherwise probative and reliable, may be
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- 2 admitted into evidence at this type of administrative
- 3 proceeding. So, those of you who are here, that this is a
- 4 special exception and some people get that confused. They
- 5 the statute, basically, it is, telecommunication is, it is
- 6 an allowed use provided that the petitioner meets general
- 7 and specific conditions. The statute is, lays out those
- 8 conditions. There is a staff report which goes to that. We
- 9 will see if the petitioner's statement of justification goes
- 10 through. They say how they're meeting it. The staff report
- 11 responds as to, and gives an opinion as to whether they have
- 12 met those conditions. So, we will, I just want to make sure
- 13 I did get a number of letters supporting. A great deal of
- 14 letters. I just want to make sure that everybody knows that
- 15 this is not a popularity contest and while those are
- 16 helpful, my rule is to review the criteria and see how the
- 17 evidence fits into the criteria. It is Mr. Donohue's burden
- 18 to show that he has met all of those criteria, and I will
- 19 make my decision based on that. So, I'm just making sure
- 20 you understand that, you know, when you think there's, I
- 21 think there's like 39 letters, maybe more, of support, and I
- 22 believe one letter of opposition. The numbers don't matter.
- 23 It's the criteria that matters. So, I just wanted to make
- 24 sure that was clear. Preliminary matters. You say you
- 25 don't have any preliminary matters. Correct, Mr. Donohue?

- 1 MR. DONOHUE: That's correct.
- 2 EXAMINER: Okay. Well, I do. We, it looks like
- 3 we have an outstanding motion to amend because you amend,
- 4 amended your petition, I believe it was August 26th. We
- 5 received a motion on the 19th.
- 6 MR. DONOHUE: Sorry. We ask that you --
- 7 EXAMINER: Which has been marked 70, Exhibit 72.
- 8 MR. DONOHUE: Yes.
- 9 EXAMINER: And the rules require that, plus I
- 10 didn't get the quality, the water quality plan until seven
- 11 days before the hearing. It needed to have been here 10
- 12 days but the bottom line is, is because of that, we don't
- 13 have, we didn't have 10 days to serve a notice to amend to
- 14 all the parties. So, I'm going to have to leave the record
- 15 open pursuant to the rules 15 days, and I believe that time
- 16 does not, we'll toll the clock, the shot clock, for that
- 17 period, and I just wanted to make sure that that was clear,
- 18 that you understood we were going to, I was going to leave
- 19 the record open for 15 days, and that period will not count
- 20 towards the tolling of the or the shot clock.
- MR. DONOHUE: That's understood.
- 22 EXAMINER: Okay.
- 23 MR. DONOHUE: You understand the Planning Board
- 24 water quality approval just came in.
- 25 EXAMINER: No. I understand that. I, I know, and

1 it, it, so that's why but I still have to leave it open for

- 2 15 days.
- 3 MR. DONOHUE: Understood.
- 4 EXAMINER: But, I just want to make sure the
- 5 record is clear in terms of, since we are up against the
- 6 shot clock, I don't believe that this delay should not count
- 7 in, in the, it tolls the time.
- 8 MR. DONOHUE: Okay. If you're asking whether the
- 9 applicant agrees, the applicant agrees.
- 10 EXAMINER: Okay. Great. We, we have an agreement
- 11 on that, and also, too, the staff report didn't get in until
- 12 the 27th, and I think it should have been here, it was less
- 13 than five days. So, overall that basically, to the
- 14 audience, that basically allows anybody time that would have
- 15 normally gotten notice of these amendments to come in and
- 16 look. In that time, anybody can submit what their concerns
- 17 were based on the amendments that came in which was the
- 18 water quality plan and the amendment to the statement of
- 19 justification. Do you want any additional time to respond
- 20 if we get anything in that time frame?
- 21 MR. DONOHUE: I would. Do you have a time in
- 22 which, well, do you have a time for which the record is
- 23 going to remain open following today?
- 24 EXAMINER: The actual date?
- MR. DONOHUE: Yes. Or X number of days.

- 1 EXAMINER: 15 days.
- 2 MR. DONOHUE: From today?
- 3 EXAMINER: Yeah.
- 4 MR. DONOHUE: Yeah. If we can have five past
- 5 that.
- 6 EXAMINER: So, so we'll, the record will close in
- 7 20 days.
- MR. DONOHUE: Excellent.
- 9 EXAMINER: Okay. So, we'll, at the end, we will
- 10 look and see what date that comes out to be. Okay. I did
- 11 want to ask you, too, with regards to the, the coordinator,
- 12 the TFC --
- 13 MR. DONOHUE: They call it the Tower Committee.
- 14 EXAMINER: Thank you.
- MR. DONOHUE: It's easier.
- 16 EXAMINER: The Tower Committee report. I was
- 17 looking at, I think it was a June 15th letter that you sent
- 18 with regards to St. Olive the Records for the Tower
- 19 Committee URM, and maybe you can just explain this to me.
- 20 What I see in the record is the minutes, an old application
- 21 from 2008.
- MR. DONOHUE: Correct.
- 23 EXAMINER: Which has Mr. Hunnicutt's
- 24 recommendation of denial.
- MR. DONOHUE: Right.

1 EXAMINER: And then to follow it up, when was the

- 2 other application filed? Because all I see in there is just
- 3 minutes but nothing with regards to Mr. Hunnicutt's written,
- 4 signing on the new application. I recognize the minutes say
- 5 he, there hasn't been any changes implying that the
- 6 decision, his decision in 2008, hasn't changed.
- 7 MR. DONOHUE: I'll find that copy for you, Madam
- 8 Chair. We, we filed that because the Tele committee revised
- 9 it's recommendation to recommend approval. It previously
- 10 had determined that T-Mobile had met its burden of need and
- 11 that there were no co-location opportunities. The, the
- 12 previous practice of the Tower Committee was to recommend
- 13 against where there were any waivers at all.
- 14 EXAMINER: Right.
- 15 MR. DONOHUE: And the office of the County
- 16 Attorney advised the Tower Committee that that was ill-
- 17 advised, that it was up to the Board whether the applicant
- 18 had met his burden on setbacks.
- 19 EXAMINER: Uh-huh.
- 20 MR. DONOHUE: So, the Tower Committee reversed
- 21 itself and recommended approval subject to the Board's
- 22 approval of the waivers. So --
- 23 EXAMINER: I guess my point is, is on the issue of
- 24 me, I thought that your June 15th letter, you cited some,
- 25 that, you cited issues of Mr. Hunnicutt's talking about the

- 1 need issue --
- 2 MR. DONOHUE: Yes.
- 3 EXAMINER: -- that he determined there, there was
- 4 a need but the only thing that I see in the record is the
- 5 2008 response.
- 6 MR. DONOHUE: All right. I'll get that for you.
- 7 EXAMINER: And is there a new one?
- 8 MR. DONOHUE: Yes.
- 9 EXAMINER: There should be a new one?
- MR. DONOHUE: Yes.
- 11 EXAMINER: Okay. All right. So, you will provide
- 12 that. Would it be on a similar, similar form as --
- 13 MR. DONOHUE: It'll be the exact same form. It'll
- 14 be, it'll have the same special exception number but it has
- 15 --
- 16 EXAMINER: A different application number in there
- 17 because the application number is the date really.
- 18 MR. DONOHUE: And its got the, well, its got the
- 19 recommendation of approval. So, I'm going to have to find
- 20 that for you. But, it's not at my fingertips here.
- 21 EXAMINER: Okay. Well, I'll, we can, we can come
- 22 back to that but I just wanted to bring that up. And your
- 23 witnesses, has your list of witnesses changed since your
- 24 presubmission?
- 25 MR. DONOHUE: No. This hasn't changed. I think

- 1 the order is going to change, Madam Chair. I think what
- 2 we'd like to do, is I'd like to call in Mr. Justin Severson
- 3 first to talk about sight selection and following Mr.
- 4 Severson, we'll have Mr. Curtis Jews who is an RF or radio
- 5 frequency engineer.
- 6 EXAMINER: Uh-huh.
- 7 MR. DONOHUE: He'll talk about integration of this
- 8 site to the network and need to support the, the findings of
- 9 the Tower Committee, et cetera. So, that would be the
- 10 second witness.
- 11 EXAMINER: Uh-huh.
- MR. DONOHUE: The third would be Mr. Camille
- 13 Shabshab who is the civil engineer, and fourth would be Mr.
- 14 Eric Braun who will testify to the property value issue.
- 15 EXAMINER: Eric, did you say?
- MR. DONOHUE: Braun.
- 17 EXAMINER: Oh. Okay.
- 18 MR. DONOHUE: And those resumes have been
- 19 submitted for each of those.
- 20 EXAMINER: Right. I have those. There was
- 21 another thing. On your, let's see, I meant this is my
- 22 original. Need to get to the site plan with regards to,
- 23 let's see. I'll come back to that. A date was missing off
- 24 of one of your site plans. I think it's like number 17,
- 25 that Z, that map Z7.

- 1 MR. DONOHUE: The --
- 2 EXAMINER: Comment 17. It has September XX. I
- 3 think it was the water quality plan. I don't necessarily
- 4 want to amend that just to put in so that it has the right
- 5 date on it.
- 6 MR. DONOHUE: Got it. Okay. We'll see if we can
- 7 do that.
- 8 EXAMINER: All right. Did you want to make an
- 9 opening statement or do you just want to go into your case?
- 10 MR. DONOHUE: You know, Madam Chair, the record in
- 11 this is, is quite voluminous, and we have a number of
- 12 witnesses for you. I think, with all due respect, I think
- 13 we can probably go right to the witnesses.
- 14 EXAMINER: Okay.
- MR. DONOHUE: I think the case is rather
- 16 straightforward. Certainly there's some questions but I
- 17 think the case is straightforward. I think we'll go right
- 18 to Mr. Severson to talk about site selection.
- 19 EXAMINER: Okay. Mr. Severson.
- 20 MR. DONOHUE: Mr. Severson is a member of the
- 21 Maryland Bar. So, whether you want have him sworn or not.
- 22 EXAMINER: Okay.
- MR. DONOHUE: I don't think he objects but --
- 24 EXAMINER: Do you object to being sworn in?
- MR. SEVERSON: I do not.

1 EXAMINER: Okay. Then I need you to raise your

- 2 right hand. Do you solemnly promise or affirm to speak
- 3 truthfully in the testimony you're about to give, to tell
- 4 the truth, the whole truth, nothing but the truth?
- 5 MR. SEVERSON: I swear.
- 6 EXAMINER: Okay. Please state your name and your
- 7 address and then wait for Mr. Donohue to ask you questions.
- 8 MR. SEVERSON: Justin Severson. My address is
- 9 3626 Second Avenue, Edgewater, Maryland 21037.
- 10 EXAMINER: Okay. Mr. Donohue.
- 11 MR. DONOHUE: Madam Chair, Mr. Severson is sitting
- 12 in today for Ms. Hillary Morrison who did a lot of leg work
- 13 on this. Ms. Morrison is intimately familiar with the case,
- 14 and Justin and I are a little bit less familiar, perhaps.
- 15 So, in some cases, I'm going to ask him to refer to some
- 16 notes that he was handed over by Ms. Morrison, both employed
- 17 by NBC, Network, Building and Consulting. I just want to
- 18 give you that as sort of a background.
- 19 EXAMINER: Okay. So, he needs his notes to
- 20 refresh his memory?
- MR. DONOHUE: He does. Yes.
- 22 EXAMINER: And what, what's his, you have
- 23 submitted his resume. Correct?
- MR. DONOHUE: Yes. We did.
- 25 EXAMINER: All right . Let's see if I can get to

- 1 that. That would be, okay. Go ahead.
- 2 MR. DONOHUE: Justin, by whom are you employed?
- 3 MR SEVERSON: I'm employed by Network Building and
- 4 Consulting.
- 5 MR. DONOHUE: In what capacity?
- 6 MR. SEVERSON: My title is zoning manager.
- 7 MR. DONOHUE: All right. And so you're familiar
- 8 with the site selection process for telecommunication
- 9 facilities?
- MR. SEVERSON: Yes. I am.
- MR. DONOHUE: Okay. Are you familiar with site
- 12 selection as it pertains to the Twin Farms facility?
- 13 MR. SEVERSON: Yes. I am familiar.
- MR. DONOHUE: Okay. So, in, in your own words,
- 15 what is the, what is the task assigned to site selection and
- 16 zoning as it pertains to telecom, in general?
- 17 MR. SEVERSON: In general, generally speaking,
- 18 there will be a need determined and then site acquisition
- 19 teams will begin to look for opportunities for co-location,
- 20 structures, or existing telecommunications facilities where
- 21 co-locations can be made to prevent the need for any type of
- 22 new construction. Then, once a site is selected, it begins
- 23 the process of achieving a preclose zoning and building and
- 24 so forth until construction.
- 25 MR. DONOHUE: So, the area of analysis, the area

1 that you asked to look at, what, what's that area called?

- 2 What's that referring to?
- 3 MR. SEVERSON: The RF propagation area.
- 4 MR. DONOHUE: Sometimes called the search.
- 5 MR. SEVERSON: Call the search area. Yes.
- 6 MR. DONOHUE: All right. You're, you're given an
- 7 identified area of need. Correct?
- 8 MR. SEVERSON: Yes.
- 9 MR. DONOHUE: All right. So, that your first
- 10 order of priority, I think you, you talked about, was to
- 11 look for co-location opportunity. Correct?
- 12 MR. SEVERSON: That's right.
- 13 MR. DONOHUE: And what does that entail for the
- 14 hearing examiner and for the audience? What is it? What
- 15 does co-location mean in terms of site selection?
- 16 MR. SEVERSON: A co-location means an existing
- 17 facility that's already operating as a telecommunication
- 18 facilities that antennas can be placed on.
- MR. DONOHUE: Okay.
- MR. SEVERSON: It could be a, could be a tower or
- 21 a pole or a building rooftop. Water tanks and things like
- 22 that.
- MR. DONOHUE: Something such that you wouldn't
- 24 have to construct new support structure.
- MR. SEVERSON: Exactly.

1 MR. DONOHUE: All right. So, in looking at the

- 2 search ring, were there co-location opportunities? Was
- 3 there a co-location facility that was, that presented
- 4 itself?
- 5 MR. SEVERSON: There were, there are some
- 6 sites, and I have diagrams and maps that we can look at.
- 7 MR. DONOHUE: Great. Do you want to put it up on
- 8 the tri-pod?
- 9 EXAMINER: Is it a map that's already been marked?
- 10 MR. DONOHUE: Yes. It is. It's, I'll get you
- 11 that number, Madam Chair.
- 12 EXAMINER: Yeah. And I meant to say this in the
- 13 beginning, too. We do have a few, I mean it's a, a full
- 14 record, and it looks like some of the things share a
- 15 duplicate, it seems like.
- MR. DONOHUE: Okay.
- 17 EXAMINER: I just want to make sure we're clear on
- 18 the right exhibit number.
- MR. DONOHUE: All right.
- 20 EXAMINER: And so which one would this be?
- 21 MR. SEVERSON: It's the one to the left.
- 22 MR. DONOHUE: These are the photos. That is
- 23 correct, Justin?
- 24 MR. SEVERSON: Well these are the photos. I'm
- 25 looking here how you put this, put this map up here. I'll

- 1 just use this as a backboard currently.
- 2 EXAMINER: Okay. Well let's, let me get to the
- 3 correct exhibit. So, these are the photo sims?
- 4 MR. SEVERSON: I'm sorry. I'm just using this
- 5 board right now to kind of put this map up on top of these.
- 6 EXAMINER: Oh. I see. Okay.
- 7 MR. SEVERSON: I have another clip.
- 8 MR. DONOHUE: You need a clip?
- 9 MR. SEVERSON: Yeah. I've got clips right here.
- MR. DONOHUE: Madam Chair?
- 11 EXAMINER: Yes?
- MR. DONOHUE: This is Exhibit 58.
- 13 EXAMINER: Okay. 58. Okay. Hold on.
- MR. DONOHUE: This was the, we provided electronic
- 15 copies as what OZAH had asked us to do. So, I'll go back to
- 16 them. Did you read them?
- 17 EXAMINER: Yeah. I need a paper copy number.
- MR. DONOHUE: Yeah. Okay.
- 19 EXAMINER: Can we just turn it just a tiny bit?
- 20 Thank you. Can everybody else still see?
- 21 MR. DONOHUE: All right. So, the map that's,
- 22 that's referred here, that Mr. Severson is referring to is
- 23 part of the propagation map. So, it's Exhibit 10A.
- 24 EXAMINER: Okay. Now, I know you didn't at the
- 25 beginning. Were you offering Mr. Severson as a expert or is

- 1 he just factual?
- 2 MR. DONOHUE: We didn't qualify, you would qualify
- 3 as an expert?
- 4 MR. SEVERSON: I think I could. Yes.
- 5 MR. DONOHUE: Okay. We'll offer him as an expert
- 6 in, in site acquisition and zoning.
- 7 EXAMINER: Site acquisition and zoning. Well,
- 8 has, has he ever been qualified as an expert before?
- 9 MR. DONOHUE: Justin, you were qualified in
- 10 Maryland or have you been qualified elsewhere?
- 11 MR. SEVERSON: No. In Maryland. I've never --
- MR. DONOHUE: Have you presented testimony before
- 13 boards or hearing examiner similar to today?
- MR. SEVERSON: Only as, as a witness.
- MR. DONOHUE: But you've presented as a witness?
- MR. SEVERSON: Yes.
- 17 MR. DONOHUE: All right. And I mentioned earlier
- 18 that you're a member of the Maryland Bar. So, obviously you
- 19 have a JD Degree?
- MR. SEVERSON: Yes. Uh-huh.
- 21 MR. DONOHUE: All right. And what's your college
- 22 degree?
- MR. SEVERSON: I went to college. I received
- 24 degrees in political science and history.
- 25 MR. DONOHUE: All right. And, and been working

- 1 for NB&C for how long?
- 2 MR. SEVERSON: Been working for NB&C. I started
- 3 with NB&C in April of this year.
- 4 MR. DONOHUE: And prior to that?
- 5 MR. SEVERSON: Prior to that, I was working for a
- 6 law firm in Annapolis, Maryland. Land use and zoning,
- 7 environmental law.
- 8 MR. DONOHUE: All right.
- 9 EXAMINER: Okay. So, the expertise, you're
- 10 saying, is in site acquisition and zoning?
- MR. DONOHUE: Yes.
- 12 EXAMINER: Okay. And you've been working with
- 13 NB&C since April?
- MR. SEVERSON: Yes, ma'am.
- 15 EXAMINER: And no prior. Okay. And at the
- 16 beginning, you had mentioned you were, he's filling in for -
- 17 -
- 18 MR. DONOHUE: Ms. Morrison who has been qualified
- 19 on numerous occasions.
- 20 EXAMINER: Right. Right.
- MR. DONOHUE: Yes.
- 22 EXAMINER: Certainly.
- MR. DONOHUE: Everybody's got to start somewhere.
- 24 EXAMINER: All right. Okay.
- 25 MR. DONOHUE: How many sites have you worked on,

- 1 Justin?
- 2 MR. SEVERSON: Currently, right now, I'm working
- 3 in, somewhere in the neighborhood of 115 sites that I have
- 4 in various depths of zoning, and I have, right now,
- 5 currently in Montgomery County, 40 to 50 sites that are in
- 6 the zoning process and tower approvals. They've been
- 7 submitted to the Tower Committee and approved and are going
- 8 into our building permits. So --
- 9 MR. DONOHUE: How about in other jurisdictions
- 10 such as Prince George's?
- 11 MR. SEVERSON: In other jurisdictions and Prince
- 12 George's County and Anne Arundel County and Fairfax County.
- 13 I have applications, sites that are in, in progress in
- 14 those counties. Numbers wise, somewhere in the 30 to 40 to
- 15 50 range.
- 16 MR. DONOHUE: All right. Requiring expertise in
- 17 terms of site selection, zoning analysis --
- MR. SEVERSON: Yes.
- MR. DONOHUE: -- setback requirements, things like
- 20 that.
- 21 MR. SEVERSON: Uh-huh. All of the above. Yes.
- 22 MR. DONOHUE: Meetings with staff, planning board
- 23 staff.
- 24 MR. SEVERSON: Meetings with staff, submission and
- 25 going and discussing intimate details of the project and how

- 1 it meets the zoning curve. Yes.
- 2 MR. DONOHUE: Presentations to planning boards as
- 3 well?
- 4 MR. SEVERSON: For me, leading my presentations to
- 5 planning board, not, not so much yet.
- 6 MR. DONOHUE: All right. How about such as Tower
- 7 Committee as we talked about earlier?
- 8 MR. SEVERSON: Yes. Attending Tower Committee
- 9 meetings and testifying and answering questions as needed
- 10 related to applications submitted.
- 11 MR. DONOHUE: Madam Chair, I think as it relates
- 12 to telecom site selection and zoning, I think it's -- I
- 13 think he's qualified.
- 14 EXAMINER: Okay. No. I just, I just wanted to
- 15 hear what he's done from a poli-sci --
- MR. DONOHUE: Yes.
- 17 EXAMINER: -- through his major to zoning. I
- 18 mean, but it sounds like you have some experience.
- 19 MR. SEVERSON: I was involved in real estate in
- 20 law school and then after, during and after law school,
- 21 worked with a law firm doing land use and zoning law, real
- 22 estate and environmental law related. So, it was a
- 23 progression into NB&C and specifically into wireless but the
- 24 land use and the zoning got --
- 25 EXAMINER: But the focus of your job now is

- 1 addressing site acquisition and zoning issues?
- 2 MR. SEVERSON: That's right.
- 3 EXAMINER: Okay.
- 4 MR. SEVERSON: Uh-huh.
- 5 EXAMINER: All right.
- 6 MR. DONOHUE: So, the map that you're showing up
- 7 here was submitted as part of the RF property issue map. Is
- 8 that correct?
- 9 MR. SEVERSON: Yes. That is correct.
- 10 MR. DONOHUE: Then maybe the Chair would like to
- 11 know what a propagation map is. She doesn't see one up
- 12 there. So, what -- do you think you can preface what Mr.
- 13 Jews is going to explain?
- 14 EXAMINER: Well, you're saying that this is
- 15 Exhibit 10?
- MR. DONOHUE: This is part of the, the map.
- 17 EXAMINER: What I have for Exhibit 10 is copies of
- 18 the picture. Oh. That's Exhibit 1. I'm sorry. I'm not
- 19 recognizing that.
- 20 MR. DONOHUE: Do you have colored maps as your
- 21 Exhibit 10 marked, we call it property issue maps, green and
- 22 blue?
- 23 EXAMINER: Uh-huh
- MR. DONOHUE: All right. There should be a map
- 25 submitted in conjunction with that.

1 EXAMINER: Do you have another small copy of that?

- 2 Another --
- MR. DONOHUE: We can leave that with you, Madam
- 4 Chair.
- 5 EXAMINER: Okay. We should probably mark that
- 6 because I'm not finding. Oh. Here we go. 10A? This is
- 7 what I have. Just so we're clear.
- 8 MR. DONOHUE: All right. So, the --
- 9 EXAMINER: This is what I have for 10.
- MR. DONOHUE: Just, just by way of explanation
- 11 and, they are, we're not supposed to speak to this but the
- 12 sites that are referred to here as adjacent sites?
- 13 EXAMINER: Uh-huh.
- MR. DONOHUE: Are identified here by latitude and
- 15 longitude.
- 16 EXAMINER: Okay.
- MR. DONOHUE: So, this is the, the big picture
- 18 map, and these are the propagation the engineers draw us.
- 19 EXAMINER: Okay. I just don't have the big
- 20 picture map is all I'm saying.
- 21 MR. DONOHUE: Understood. So, our Exhibit 17?
- 22 EXAMINER: No. We'll call that, we can add that
- 23 as 10C.
- MR. DONOHUE: Thank you.
- 25 EXAMINER: Because we're up to, we have 10A and

1 10B. We can add that as 10C. So, let me mark that. Can

- 2 you?
- 3 MR. SEVERSON: Yes, Ma'am?
- 4 EXAMINER: Can you mark that Exhibit 10C.
- 5 MR. SEVERSON: Write right here on the top right-
- 6 hand corner.
- 7 EXAMINER: Top right-hand corner, and I can keep
- 8 that?
- 9 MR. DONOHUE: Yes. You can.
- 10 EXAMINER: Okay. And why don't you just --
- 11 MR. DONOHUE: And I believe you have that in the
- 12 electronic package that was, was given to you.
- 13 EXAMINER: Probably due but I --
- MR. DONOHUE: That's fine.
- 15 EXAMINER: So, we'll just, the record will be
- 16 clear.
- 17 MR. DONOHUE: The next witness will use it as
- 18 well. So, we'll keep it.
- 19 EXAMINER: Okay.
- MR. DONOHUE: All right. So, we'll call that a
- 21 propagation of vicinity map.
- 22 EXAMINER: Okay. Well, he can identify what it is
- 23 for the record, and you can ask the questions.
- MR. SEVERSON: Sure. So, this is our propagation
- 25 vicinity map. What it does is it's an overlay of the street

1 and areas and some different geographical features of the,

- 2 of the site. Primarily, what this shows is our location
- 3 here on Fairland Road denoted by the red flag. This is the
- 4 Twin Farms Swim Club property surrounding or reaching
- 5 outward with these purple lines are green flags which show
- 6 sites in the area, possible co-location opportunities, that
- 7 would have been evaluated.
- 8 MR. DONOHUE: All right. So, for example, if we
- 9 go northwest of the Twin Farms site.
- MR. SEVERSON: Uh-huh. Okay. So, here northwest,
- 11 we have this church steeple here. It's a mile and three,
- 12 1.34 miles away at 14500 New Hampshire Avenue.
- 13 EXAMINER: Okay.
- 14 MR. SEVERSON: Coming down counter-clockwise. .91
- 15 miles away at 49 Randolph Road we have model pole, a 150
- 16 foot model pole. To the southwest here, we have, 1.77 miles
- 17 away, we have a light pole facility that's 96 feet at 201
- 18 Valley Brook Drive. To the southeast, 1.73 miles away, we
- 19 have model pole, and it's 140 feet tall at 12355 Prosperity
- 20 Drive. Right above that, up Columbia Pike Ways, 1.61 miles
- 21 away from the Twin Farms Swim Club, we have an in building
- 22 facility, 12501 Old Columbia Pike and then here east of the
- 23 Twin Farms Swim Club, 1.52 miles away, at 13100 Columbia
- 24 Pike, we have a building facility at a height of 120 feet.
- 25 MR. DONOHUE: All right. So, collectively, what

- 1 is the, what is this map showing us?
- 2 MR. SEVERSON: Collectively, what this map is
- 3 showing us is talk indications facilities in the air, in the
- 4 area of the Twin Farms Swim Club. More specifically what
- 5 it's showing us is a list of sites in the area that aren't
- 6 close enough or suitable to meet the needs of T-Mobile in
- 7 this area of the Twin Farms Swim Club. There isn't a
- 8 location that meets the needs, that's existing to meet the
- 9 needs, for the swim club, Twin Farms Swim Club area for T-
- 10 Mobile.
- MR. DONOHUE: All right. So, is it your testimony
- 12 that T-Mobile didn't, wasn't able to find a co-location
- 13 opportunity? Is that correct?
- MR. SEVERSON: That is, that is the short of, of
- 15 my, my point. Yes. There's not a suitable co-location
- 16 opportunity for a Twin Farms.
- MR. DONOHUE: Yeah. And I don't want to step on
- 18 the toes of the next witness but is this the material that
- 19 was submitted to the Tower Committee for its review?
- MR. SEVERSON: Yes.
- MR. DONOHUE: All right.
- 22 EXAMINER: And this is just, he's your witness.
- 23 Could you just ask him direct questions and let him answer.
- MR. DONOHUE: I will.
- 25 EXAMINER: It sounds like you're --

- 1 MR. DONOHUE: I will.
- 2 EXAMINER: -- cross-examining him a little bit. I
- 3 know it's his first time but he looks like he's --
- 4 MR. DONOHUE: He's doing fine.
- 5 EXAMINER: He's doing fine. So --
- 6 MR. DONOHUE: All right. So, let's move on. You,
- 7 you first looked for co-location opportunities and--
- 8 MR. SEVERSON: Uh-huh.
- 9 MR. DONOHUE: And you found none. Correct?
- MR. SEVERSON: That's correct.
- MR. DONOHUE: So, what's next?
- 12 MR SEVERSON: What next is to go out and look for
- 13 existing opportunities to place some towers.
- MR. DONOHUE: Yes.
- 15 MR. SEVERSON: We did go ahead and do that. There
- 16 were three facilities in the area of the Twin Farms Swim
- 17 Club that were evaluated. One was a site at William Tower
- 18 Elementary School.
- 19 EXAMINER: Uh-huh.
- 20 MR. SEVERSON: One was a site at Forcey Memorial
- 21 Church.
- 22 EXAMINER: Forcey?
- MR. SEVERSON: Forcey. F-O-R-C-E-Y.
- 24 EXAMINER: Thank you.
- 25 MR. SEVERSON: And then the third was a Pepco

1 pole. The church and the elementary school were eliminated

- 2 rather quickly after consideration of capacity and whether
- 3 or not they would meet the needs of T-Mobile's coverage
- 4 requirements. So, those, the, the church and the elementary
- 5 school were eliminated, and the Pepco wooden pole was a
- 6 better candidate than the church and the school but still
- 7 did not meet all the needs of T-Mobile in the area, and
- 8 there were also a lot of complications reaching an agreement
- 9 that worked for T-Mobile and Pepco. It was a wooden pole.
- 10 So, there were a lot of pole replacement and leasing issues
- 11 that made the site, ultimately, not useable.
- MR. DONOHUE: All right. So, three candidates
- 13 were evaluated. You explained the church, the elementary
- 14 school, and then the Pepco wood pole, and three were
- 15 rejected.
- MR. SEVERSON: Yes. Right.
- 17 MR. DONOHUE: All right.
- 18 EXAMINER: But the third one, just to, just for my
- 19 clarification. With regards to the Pepco, what I was
- 20 hearing you say is that it didn't meet the needs but then
- 21 you bifurcated it off to there were complications with
- 22 leases. Putting that aside, explain to me what you mean it
- 23 didn't meet your needs. What --
- 24 MR. SEVERSON: Well, the pole is, the wooden pole
- 25 as it stood, would not be capable of supporting any type of

1 insulation. So, there would have to be a pole replacement -

- 2 -
- 3 EXAMINER: Oh. Okay.
- 4 MR. SEVERSON: -- that Pepco would need to
- 5 undergo, and that brings a lot of problems up. It's a --
- 6 EXAMINER: Okay. So, it was, the pole itself was-
- 7 –
- 8 MR. SEVERSON: That's right.
- 9 EXAMINER: -- would not have allowed for the
- 10 antennas?
- MR. DONOHUE: Might be helpful if you explain the
- 12 different between a transmission structure --
- MR. SEVERSON: Uh-huh.
- 14 EXAMINER: That would be great.
- MR. DONOHUE: -- and a distribution pole. All
- 16 right?
- 17 EXAMINER: Okay.
- 18 MR. SEVERSON: Right. So, what, what you're
- 19 dealing with here was just your standard wooden pole as
- 20 opposed to a much taller steel, you know, utility
- 21 transmission tower that generally we'd have less problems
- 22 with installing antennas.
- MR. DONOHUE: Would the wood pole have had to been
- 24 replaced with a, with a bigger "structure".
- 25 MR. SEVERSON: Yes. Absolutely. The wood pole

1 would have needed to been replaced with a larger, taller,

- 2 stronger, structure to support the antennas.
- MR. DONOHUE: And Justin, I don't know whether you
- 4 know this or not but was the wood pole in right-of-way or
- 5 on, on private land?
- 6 MR. SEVERSON: I don't know a certain answer on
- 7 that.
- 8 MR. DONOHUE: Because ground issues tend to wooden
- 9 poles. Correct?
- MR. SEVERSON: Uh-huh. Yes.
- 11 MR. DONOHUE: So, leasing issues with, with
- 12 distribution poles as opposed to transmission?
- 13 MR. SEVERSON: Right.
- MR. DONOHUE: Right? All right. So, failing
- 15 that, we, you look for an opportunity for new structure.
- 16 Correct?
- MR. SEVERSON: Uh-huh. Yes.
- 18 MR. DONOHUE: All right. And can you tell us
- 19 what, in general, can you tell us what attributes you'd look
- 20 for in new structure, new construction?
- 21 MR. SEVERSON: When we, when we're evaluating
- 22 sites for new construction, one of the most important
- 23 details is whether or not it can be shaded from, from view.
- 24 Whether there are certain attributes of the property that
- 25 would allow neighboring sites not to be burdened by, by the

1 construction of, installation there. Something about a

- 2 property shielded by trees be there is what we look for.
- 3 Things that won't have affects on neighboring land owners.
- 4 MR. DONOHUE: What about the size of the parcel?
- 5 MR. SEVERSON: We generally look for a parcel
- 6 large enough to meet all setback requirements for the
- 7 installation.
- 8 MR. DONOHUE: Is there a consideration for
- 9 underlying uses as part of that? For example, do you have a
- 10 mix of, well, in the area you have a mix of residential and
- 11 nonresidential uses. Is there consideration of the
- 12 underlying use when you're looking for a suitable site?
- MR. SEVERSON: Well, generally, when looking for a
- 14 site, we would try to stay away from residential areas.
- 15 MR. DONOHUE: All right. Well, I guess what I'm
- 16 getting at is, is there a consideration for institutional or
- 17 similar type uses? I'm trying to get to the compatibility
- 18 question. You have residentially zoned property, and you
- 19 have property that's used as core residential and other.
- MR. SEVERSON: Uh-huh.
- 21 MR. DONOHUE: So, is there a consideration for
- 22 institution or other similar uses as a positive attribute?
- MR. SEVERSON: Yes. Well, with this particular
- 24 land at the swim club, there's a lot of benefits to the swim
- 25 club of having the site located there.

- 1 MR. DONOHUE: Attending to use and size?
- 2 MR. SEVERSON: Yes. Well, the swim club property
- 3 is large enough, we feel, to meet the requirements of the
- 4 installation there.
- 5 MR. DONOHUE: Let's, let's talk about the swim
- 6 club property.
- 7 MR. SEVERSON: Okay.
- 8 MR. DONOHUE: Do you know the size of the parcel?
- 9 MR. SEVERSON: I think it's 3.79 acres.
- 10 MR. DONOHUE: All right. And it's orientation to
- 11 Fairland Road? Do you know where that is?
- MR. SEVERSON: Yes. Fairland Road is here. The
- 13 swim club property is to the north of Fairland Road. Right
- 14 here. It juts out.
- 15 EXAMINER: Referring to the still map, 10C?
- 16 MR. SEVERSON: Yes. Referring to Exhibit 10C
- 17 here. We have Fairland Road and the swim club property
- 18 comes this way.
- 19 EXAMINER: Where the red flag is.
- MR. SEVERSON: Where the red flag is. Exactly.
- 21 MR. DONOHUE: We have better plans but let's stay
- 22 with this one since we know it's 10C. What, what uses are
- 23 on the swim club property?
- 24 MR. SEVERSON: Right now, the swim club property,
- 25 there is a swimming pool, there's the parking areas, tennis

1 courts, and then there's also open space used by the swim

- 2 club for various activities and community events.
- 3 MR. DONOHUE: All right. Can you describe the
- 4 landscaping?
- 5 MR. SEVERSON: The landscaping. Yes. The swim
- 6 club property generally slips down from Fairland Road, and
- 7 it's heavily wooded on all sides. Protected by trees and
- 8 buffered from neighbor properties on Fairland Road.
- 9 MR. DONOHUE: Okay. You have your photo
- 10 simulations on the next board, I think. Right?
- 11 MR. SEVERSON: Yes. I can get rid of this.
- 12 EXAMINER: We don't need to keep that one or is
- 13 that already in?
- MR. DONOHUE: That's in.
- 15 EXAMINER: That's already in? That's ours? Okay.
- 16 MR. DONOHUE: That's your, that's your Exhibit 11,
- 17 A through I.
- 18 EXAMINER: Okay. Let's take a look. Just, just,
- 19 this is what I have.
- MR. DONOHUE: Okay. And that's in the, in the
- 21 final section?
- 22 EXAMINER: That's --
- MR. DONOHUE: Starts here?
- EXAMINER: Yes.
- MR. DONOHUE: Okay.

1 EXAMINER: I think that's actually, is that the

- 2 same?
- 3 MR. DONOHUE: Well, you marked it up.
- 4 EXAMINER: No. This is my copy. The unmarked--
- 5 MR. DONOHUE: Yes.
- 6 EXAMINER: Yeah. Just, but it's already marked.
- 7 So I have that as 11, and actually, it also comes back in
- 8 when you submitted the electronic copies, other hard copies
- 9 were marked 56 A through I and the only thing I noted was
- 10 that 56B was new. I didn't have that in here which happens
- 11 to be the picture of the tennis court. The view from the
- 12 north showing the balloon flag. I did not see that in 11
- 13 but --
- MR. DONOHUE: Okay.
- 15 EXAMINER: All of them are in. I'm just making
- 16 sure, you know, that's in 11 as well as 56.
- 17 MR. DONOHUE: Great. Very good.
- 18 EXAMINER: Go ahead.
- MR. DONOHUE: Okay. All right. So, why don't you
- 20 describe for us what we're looking at here?
- MR. SEVERSON: Right. So --
- 22 EXAMINER: I'm sorry. One more thing. Just so
- 23 that we're talking about the same pictures on the board,
- 24 when you point to one, I mean, they don't have their own
- 25 individual number. They're not showing on that board. We

- 1 want to take a few moments and --
- 2 MR. DONOHUE: Sure.
- 3 EXAMINER: -- write those on so we don't have to
- 4 stop every single time and say --
- 5 MR. DONOHUE: Go ahead and mark it?
- 6 EXAMINER: Yeah.
- 7 MR. DONOHUE: Justin, you call them off.
- 8 MR. SEVERSON: Okay. Bottom left here. That's
- 9 11B.
- 10 MR. DONOHUE: Okay.
- MR. SEVERSON: And right above that we have 11C.
- MR. DONOHUE: (Indiscernible).
- MR. SEVERSON: And then if you're in the top right
- 14 corner.
- MR. DONOHUE: Yeah.
- MR. SEVERSON: That's 11D.
- 17 EXAMINER: D?
- 18 MR. SEVERSON: D. Yes. As in David. I got this
- 19 one right here --
- MR. DONOHUE: Uh-huh.
- 21 MR. SEVERSON: That is 11E. Right above that, we
- 22 have 11F. Bottom right hand corner.
- MR. DONOHUE: Uh-huh.
- MR. SEVERSON: We have 11G.
- MR. DONOHUE: Okay.

- 1 MR. SEVERSON: Let's see. Right there. Yes.
- 2 That's 11H, and then right below that we have 11I.
- 3 EXAMINER: Actually, I don't even see the one
- 4 picture of the, the one that I was talking about, 56B. It's
- 5 this one.
- 6 MR. DONOHUE: That's the one you mentioned that
- 7 came through B-?
- 8 EXAMINER: Yeah. Yeah. That came through later.
- 9 MR. DONOHUE: Okay.
- 10 EXAMINER: I don't see it on the board.
- 11 MR. DONOHUE: Okay. It was the north view from,
- 12 it showed the picnic area. So, I don't know if you're going
- 13 to add that or we don't even need to worry about it but this
- 14 is one that came through --
- MR. DONOHUE: Right.
- 16 EXAMINER: -- most recently with the batch of
- 17 electronic --
- MR. DONOHUE: Well, this one here? We don't need
- 19 it.
- 20 EXAMINER: Okay. That's why it's not up there but
- 21 it was included just so you know. Okay. So, thanks. So,
- 22 when you're talking about a picture just --
- MR. SEVERSON: Sure.
- 24 EXAMINER: -- make sure you identified so the
- 25 record is clear so I know when I go back to look over and

1 give my report, I know what exhibit we're talking about.

- 2 So, thank you.
- 3 MR. DONOHUE: Okay. So, if you'll explain to us
- 4 what we're looking at here.
- 5 MR. SEVERSON: Okay. The first photo we'll talk
- 6 about here is 11C. This is a shot of Fairland Road. Right
- 7 over here what we have is the entrance to the swim club.
- 8 The balloon or the (indiscernible) site is not visible from
- 9 this location.
- 10 MR. DONOHUE: Justin. I'm sorry to interrupt.
- 11 Let's start with this. How are these prepared? How were
- 12 the photos that you're just showing on the board, how are
- 13 those prepared?
- MR. SEVERSON: These photos. We have a
- 15 photographer that goes around the site, circles the site,
- 16 and takes photos from various vantage points. We bring the
- 17 photos back into our office, and we have a photo simulation
- 18 expert go in and using the plans, design a picture of what
- 19 the site will look like from that location using the plans
- 20 and the submitted photographs.
- 21 MR. DONOHUE: And that photographer is taking
- 22 pictures of what?
- MR. SEVERSON: And the photographer is taking
- 24 pictures of the balloon fly that we did for this site.
- 25 MR. DONOHUE: And what's the balloon meant to do?

1 MR. SEVERSON: I'm sorry. The balloon, we use a

- 2 red balloon, and what that is meant to show, it's, it's
- 3 tethered around the cable and it goes to the height of the
- 4 tower. So, it is to give an idea to the public of, using a
- 5 little imagination, what the site will look like when it's
- 6 built.
- 7 EXAMINER: Is the balloon -- how big is the
- 8 balloon?
- 9 MR. SEVERSON: The balloon, this is a red balloon.
- 10 It's six feet in diameter. It's fairly large. Tethered to
- 11 the ground with a strong line.
- 12 EXAMINER: At 125 --
- MR. SEVERSON: Yes.
- 14 EXAMINER: The reason I ask how big is it in terms
- of, in comparison to what, what is actually going to be up
- 16 there.
- 17 MR. SEVERSON: Understood.
- 18 EXAMINER: I mean a red, a small red dot as
- 19 opposed to a almostB-.
- MR. SEVERSON: Well, we'll get to that.
- 21 EXAMINER: Okay.
- 22 MR. DONOHUE: The balloon is meant to indicate
- 23 height. Correct?
- MR. SEVERSON: Yes.
- 25 MR. DONOHUE: And then how does one get to, to the

- 1 simulation, if you will? How do you get from how this is
- 2 how tall it's going to be to the Chair's question what's it
- 3 going to look like?
- 4 MR. SEVERSON: Well, we have our, our photo sims
- 5 expert, and they take the plans and then they do, you know,
- 6 their math, their math related to how far away from the site
- 7 the pictures were taken and then they use it to design an
- 8 accurate portrayal of the site once the insulation's
- 9 constructed.
- 10 EXAMINER: That, that, you're talking about the
- 11 photo cropping in the flag. Is that what you're talking
- 12 about?
- MR. DONOHUE: The pole as well as the flag.
- 14 EXAMINER: The pole and the flag, I mean. Right.
- MR. SEVERSON: The pole. Yes, ma'am.
- 16 MR. DONOHUE: So, and Justin, I supposed we should
- 17 -- the, the proposed facility here for the swim club is
- 18 what?
- MR. SEVERSON: The proposed facility here is 125
- 20 foot flag pole.
- 21 EXAMINER: Right.
- 22 MR. DONOHUE: All right. And so the, the
- 23 simulations that are done are meant to replicate that, that
- 24 view. Correct?
- 25 MR. SEVERSON: Yes. We take out the photo that we

1 have of the balloon flying with the balloon tethered to the

- 2 ground, and then we insert a picture of the flag pole as it
- 3 will be, as it would be built.
- 4 MR. DONOHUE: All right. And the legend that's
- 5 shown on the bottom there, and I've forgotten the number
- 6 again. That one there. But, the legend is down below.
- 7 MR. SEVERSON: Here?
- 8 MR. DONOHUE: No. Down below that. Yep.
- 9 EXAMINER: That, I believe is Exhibit 11. Then it
- 10 goes into A, B, and C. So --
- MR. DONOHUE: All right. So, Exhibit 11 is meant
- 12 to show what?
- 13 MR. SEVERSON: What Exhibit 11 is meant to show is
- 14 where these various photos are taken from. We have our
- 15 sites here and blue dots surrounding. This is where our
- 16 photographer went, parked his car, got out, used his camera
- 17 to take a picture of the blank lot.
- 18 MR. DONOHUE: And are the distances from the
- 19 balloon shown on the, on the photos?
- 20 MR. SEVERSON: Yes. On the, on the photos here in
- 21 the bottom left-hand corner, there is a description. States
- 22 the address of where the photo was taken from, whether or
- 23 not the balloon or the insulation would be visible from that
- 24 location and then gives a mileage away from the site.
- MR. DONOHUE: Okay.

1 EXAMINER: Can I ask when these photos were taken?

- 2 When the balloon test was done and when the photos --
- 3 MR. SEVERSON: The balloon flight was conducted on
- 4 July 26th, and that's when our professional took the
- 5 pictures.
- 6 EXAMINER: 2011?
- 7 MR. SEVERSON: Yes, ma'am. 2011.
- 8 EXAMINER: And, okay. Were you present for this?
- 9 MR. SEVERSON: I was there for the balloon flight,
- 10 ma'am.
- 11 EXAMINER: Hmm. That's good.
- MR. DONOHUE: Was the community notified of the
- 13 balloon flight?
- MR. SEVERSON: The community was notified of the
- 15 balloon fly. Weeks in advance letters went out giving a
- 16 detailed explanation of what was going to occur and when it
- 17 would, when it would occur.
- 18 EXAMINER: Did people show up?
- MR. DONOHUE: Did people show up?
- MR. SEVERSON: Mr. Hagler was there and a few
- 21 other members of the board of the swim club were there. I
- 22 believe we did have one couple that I would describe more as
- 23 looky lous than anyone.
- 24 EXAMINER: As what?
- 25 MR. DONOHUE: That's a technical term.

1 EXAMINER: I was going to say. Did you learn that

- 2 in law school?
- 3 MR. SEVERSON: They didn't know --
- 4 MR. DONOHUE: That's why he's qualified as an
- 5 expert.
- 6 Mr. SEVERSON: They were, they were unaware that
- 7 something was going on but when they saw the balloon fly,
- 8 they wanted to know what was going on. I don't believe they
- 9 lived in the area.
- 10 EXAMINER: Oh. Okay.
- MR. SEVERSON: So --
- MR. DONOHUE: Everybody comes out for balloons.
- 13 EXAMINER: Thought, thought it was a car sale?
- MR. SEVERSON: I shouldn't say that --
- 15 MR. DONOHUE: Yeah. That's right.
- 16 MR. SEVERSON: I shouldn't say that there weren't
- 17 anyone, there was no one that came because there was this
- 18 one couple but other than that, no. No one came to site.
- 19 EXAMINER: But you gave notice?
- MR. SEVERSON: Yes, ma'am.
- 21 MR. DONOHUE: Justin, what, what time of day was
- 22 the balloon?
- MR. SEVERSON: The balloon fly. I believe it
- 24 began at 8:00 o'clock is when, is when we set the balloon
- 25 into the air and then it stayed up for a few hours after

- 1 that until 11:00 or so.
- 2 MR. DONOHUE: Is there a reason you use the early
- 3 morning hours for the balloon fly?
- 4 MR. SEVERSON: The increased visibility.
- 5 MR. DONOHUE: All right. And, okay.
- 6 EXAMINER: And how do you determine where you,
- 7 what site you're going to take the, I mean, how did you pick
- 8 Crawfoot, Mimosa, and --
- 9 MR. SEVERSON: Well --
- 10 EXAMINER: Why, why those particular places or--
- 11 MR. SEVERSON: One of the, one of the best reasons
- 12 for site selection over the photos taken is, is can we
- 13 actually see the site from there because, and we don't want
- 14 to just take photos of, of trees or nothing and, and we want
- 15 to give an accurate representation so that there aren't any
- 16 surprises later. So, we go around and we look, and I drove
- 17 all the neighborhood streets, and I, and I would testify
- 18 that these photos are an accurate representation of where
- 19 the balloon or the selection would be visible from, and
- 20 there really aren't any opportunities to take photos of the
- 21 site of the balloon fly that, that I represented here.
- 22 EXAMINER: Okay. If I will, one more question.
- MR. SEVERSON: Sure.
- 24 EXAMINER: In terms of, did you take it from any
- 25 of the places where you were requesting setback waiver? Are

1 any of those pictures representative of, because I'm looking

- 2 at the addresses that you posed --
- MR. DONOHUE: Well, let's let's start with this,
- 4 Madam Chairman. The photographs, Justin, the photographs
- 5 are taken from public right of way. Is that correct?
- 6 MR. SEVERSON: Yes. That's correct.
- 7 EXAMINER: Okay.
- 8 MR. DONOHUE: All right. So, you're not on a
- 9 private premises here where you're taking photos?
- MR. SEVERSON: No.
- 11 MR. DONOHUE: All right. There are photographs
- 12 that will be submitted later --
- 13 EXAMINER: Okay.
- 14 MR. DONOHUE: -- that specifically address your,
- 15 your question but they're not part of this package.
- 16 EXAMINER: Not part of the balloon test?
- 17 MR. DONOHUE: Correct.
- 18 EXAMINER: They're, they're just to show
- 19 --
- MR. DONOHUE: That's correct.
- 21 EXAMINER: But it doesn't, there's, there's
- 22 nothing Photo-shopped in, like the balloon is not there so
- 23 we can see what it, what it actually looks like once it's
- 24 there.
- 25 MR. DONOHUE: Correct. The, well, let's ask the

- 1 witness maybe is the best way. Justin, these photo
- 2 simulations were prepared for submission to the county.
- 3 Correct?
- 4 MR. SEVERSON: That is correct.
- 5 MR. DONOHUE: And are they submitted to the Tower
- 6 Committee as well?
- 7 MR. SEVERSON: These photo zones are not submitted
- 8 to the Tower Committee.
- 9 MR. DONOHUE: All right. So, they're prepared in
- 10 conjunction with a special exception.
- MR. SEVERSON: Yes. That's correct.
- 12 MR. DONOHUE: All right. Is this standard
- 13 practice to do the photos that you've described here, to
- 14 drive around to look for visibility points and then take
- 15 photos?
- MR. SEVERSON: That is our standard practice.
- 17 Yes.
- MR. DONOHUE: All right.
- 19 EXAMINER: Well, I mean, I'm just, it's just
- 20 you're asking for --
- MR. SEVERSON: Uh-huh.
- 22 EXAMINER: -- residential setbacks.
- MR. SEVERSON: Uh-huh.
- 24 EXAMINER: I'm just curious to, you know, what,
- 25 what the vision is --

- 1 MR. SEVERSON: Uh-huh.
- 2 EXAMINER: -- that we're going to see, and I know
- 3 that we have 1309 Mimosa but that's, I don't know that
- 4 that's one of the setbacks, and I can't imagine that, I
- 5 think it's 1304 or something, doesn't have a right of way in
- 6 front of it.
- 7 MR. SEVERSON: Uh-huh.
- 8 EXAMINER: I mean, I'm just curious --
- 9 MR. SEVERSON: Understood. All right.
- 10 EXAMINER: -- as to or, or maybe you can answer
- 11 where the, just looking at Mimosa, well, you can, on Hobart.
- 12 Are they near the ones that are, where you're requesting
- 13 115, let's say the 115 foot setback.
- MR. SEVERSON: Right. So, Mimosa Lane is here
- 15 across Fairland Road and our setbacks primarily deal with
- 16 properties here on the north side of Fairland Road.
- 17 EXAMINER: Well, you have some setback reductions
- 18 on Mimosa.
- MR. SEVERSON: Right.
- 20 EXAMINER: I think three.
- 21 MR. SEVERSON: Yes. So, as far as, as far as
- 22 there on Mimosa, there's this one, this right here, and, and
- 23 which here is the balloon fly.
- 24 EXAMINER: What number is that?
- MR. SEVERSON: This is 11D.

- 1 EXAMINER: Okay.
- 2 MR. DONOHUE: Is the balloon visible in that shot?
- 3 MR. SEVERSON: The balloon is not visible. There
- 4 is heavy, heavy trees to the rear of these lots and then
- 5 also on both sides of Fairland Avenue here. So, the rear of
- 6 these lots on Mimosa --
- 7 EXAMINER: Uh-huh.
- 8 MR. SEVERSON: We have heavy, heavy tree coverage,
- 9 and then on the opposite side of Fairland between these lots
- 10 and the installation, heavy, heavy tree coverage.
- 11 EXAMINER: Can you find 11D?
- MR. DONOHUE: Yeah.
- 13 EXAMINER: So, in 11D, your, this is facing the
- 14 area of the swim club?
- 15 MR. SEVERSON: On 11D. Yes. Facing --
- 16 EXAMINER: If I'm looking at this, the swim club
- 17 is going to be to the right or to the left?
- 18 MR. SEVERSON: I believe it's to the left.
- 19 Straight back and to the left.
- 20 EXAMINER: And this is from Fairland --
- 21 MR. SEVERSON: That's essentially from the, from
- 22 the angle that the photo is taken and see that it's not
- 23 straight on to the homes. It, it goes back at a, at a
- 24 northwest angle and that's in 1309 to the site, and see here
- 25 on Exhibit 11 the way that angle works.

1 EXAMINER: Okay. So, on the other side, I mean,

- 2 is Mimosa. It's Mimosa then the houses and then Fairland?
- 3 MR. SEVERSON: Yes.
- 4 EXAMINER: Does this abut Fairland?
- 5 MR. SEVERSON: Yes. The last few abut Fairland.
- 6 EXAMINER: Okay. All right. So, this is, do you
- 7 stand, this is before Fairland and then there's Fairland and
- 8 then --
- 9 MR. SEVERSON: Yes. It's Mimosa, the lots,
- 10 Fairland and then the north side of Fairland which is swim
- 11 club properties.
- 12 EXAMINER: Okay. Okay. Thank you. I'm sorry.
- MR. DONOHUE: That's all right. Justin, you've
- 14 mentioned the community outreach for the balloon fly. Was
- 15 there a community meeting following the --
- 16 MR. SEVERSON: There was also a community meeting
- 17 on August 4th which I also attended where we had this
- 18 particular piece of equipment along with other maps and, and
- 19 pictures.
- 20 EXAMINER: You had these pictures. Is that what
- 21 you said?
- MR. SEVERSON: Yes. Yes, ma'am.
- MR. DONOHUE: And did the community attend?
- 24 MR. SEVERSON: About the same turnout as the fly,
- 25 the balloon fly. A few members from the swim club, two or

- 1 three, and that, that was it.
- 2 MR. DONOHUE: And what was the nature of the
- 3 presentation that, what do you mean? What did, what did,
- 4 you had the pictures, you said.
- 5 MR. SEVERSON: We had the pictures. We had
- 6 applications. We were there to answer any questions. We
- 7 spoke with Mr. Hagler and a few of the other members that,
- 8 that showed up just about the general process, what to
- 9 expect, and, and just an overview of the project. It was
- 10 congenial, I would say, the nature of the meeting.
- MR. DONOHUE: Well, good. I'm glad to hear that.
- 12 Were there others, were others from T-Mobile or were there
- others representing T-Mobile at the meeting?
- MR. SEVERSON: Hillary. Hillary Morrison was at
- 15 the meeting. Hillary is the zoning manager at NB&C, and
- 16 she's been working on this site extensively. She was there.
- 17 I was there. Mr. Jews, who will be speaking later on RF
- 18 matters, attended the meeting and also Maria. Maria, I
- 19 believe, from your office was, attended also.
- MR. DONOHUE: Correct.
- MR. SEVERSON: And --
- 22 MR. DONOHUE: So, was it, was there opportunities
- 23 for question and answer?
- 24 MR. SEVERSON: There were opportunities for
- 25 question and answer at the meeting.

1 MR. DONOHUE: All right. And I will ask Mr. Jews

- 2 about the role of RF in, in the meeting and that kind of
- 3 thing but was there, was there a follow-up? That meeting
- 4 was August, you said?
- 5 MR. SEVERSON: August 4th. Right.
- 6 MR. DONOHUE: Was there follow-up after that
- 7 meeting? Was there --
- 8 MR. SEVERSON: There were no follow-up meetings
- 9 that I attended after that August 4th.
- 10 MR. DONOHUE: Okay. All right. I'm going to show
- 11 you a aerial photograph and then a couple of other photos
- 12 that were prepared by Mr. Hagler.
- MR. SEVERSON: Okay.
- MR. DONOHUE: All right.
- 15 EXAMINER: Are they --
- 16 MR. DONOHUE: These have not been submitted yet,
- 17 Madam Chair. I'm going to ask him whether he feels
- 18 confident to, to speak to it and then I'll ask you to put it
- 19 into the record.
- 20 EXAMINER: Do you want to take a few minutes and
- 21 do that? See if he's gotten B-.
- MR. DONOHUE: He's fast.
- 23 EXAMINER: He's fast. Okay. And I do have some
- 24 other questions --
- MR. DONOHUE: All right.

1 EXAMINER: -- when you're, before we leave Mr.

- 2 Severson.
- 3 MR. DONOHUE: Okay.
- 4 EXAMINER: Okay.
- MR. DONOHUE: Madam Chair, we're going to ask that
- 6 this be submitted into the record. Mr. Hagler, who's here,
- 7 took those photographs and created the narrative that you
- 8 see on there. He shared these with us this morning. So --
- 9 EXAMINER: Well, shouldn't Mr. Hagler be putting
- 10 these in?
- MR. DONOHUE: Well, you had asked questions about
- 12 the abutting properties and about additional photographs.
- 13 So, I thought it might be helpful at this time but we can
- 14 wait.
- 15 EXAMINER: Okay. Well, we can, we can mark it and
- 16 we will, he will --
- 17 MR. DONOHUE: Talk to us about his camera and his
- 18 angle and --
- 19 EXAMINER: Definitely. So, I mean, and he's, he's
- 20 just using this for --
- 21 MR. DONOHUE: I won't put words in his mouth but--
- 22 EXAMINER: That's a good idea.
- MR. DONOHUE: -- the Chair asked about the, the,
- 24 about the setbacks and about a closer analysis, if you will,
- 25 of abutting property owners. So --

1 EXAMINER: Okay. So, I'm going to just to mark

- 2 it, and he's going to refer to it but he's not really
- 3 speaking from personal knowledge. He's just --
- 4 MR. DONOHUE: Understood.
- 5 EXAMINER: So, this would be Exhibit 74 and go
- 6 ahead. You can ask your questions and Mr. Hagler, just
- 7 remind me that I want to hear from you.
- 8 MR. DONOHUE: All right. So, let's go through
- 9 this. The first one here is an aerial shot.
- MR. SEVERSON: Uh-huh.
- MR. DONOHUE: Does that sound right?
- 12 MR. SEVERSON: Yes.
- 13 MR. DONOHUE: And what's shown here in the, in the
- 14 aerial shot? What do you, what do you see?
- 15 MR. SEVERSON: In the aerial shot here, we have a
- 16 varying view of the entire Twin, Twin Farms Swim Club
- 17 property off of Fairland Road and also directed with yellow
- 18 arrows here are the neighboring properties and the homes to
- 19 the swim club. Also, called out with the yellow arrow, is
- 20 the cell tower and then it looks like he's also made some
- 21 notations here at photos 1 and 2, photos 3 and 4. Where the
- 22 additional photos were taken.
- MR. DONOHUE: Okay.
- 24 EXAMINER: Well, let me ask you this. I mean, and
- 25 you're looking at this, are those representations accurate

- 1 from your being on the property and (indiscernible)?
- 2 MR. SEVERSON: Yes. These match my, my views of
- 3 the property when I attended them. Also, other aerial
- 4 photos that I've viewed of the property. These are a match.
- 5 Yes.
- 6 EXAMINER: Okay.
- 7 MR. DONOHUE: All right. So, let's turn to page
- 8 2.
- 9 EXAMINER: And I'm going to mark. It's 74A, 74B,
- 10 and 74C. So, the second page will be 74B.
- MR. SEVERSON: Yes, ma'am.
- MR. DONOHUE: So, turning to 74B or 2 of 3, does
- 13 that look to be your balloon shown in photo 1A and 1B?
- MR. SEVERSON: Yes. These were pictures that Mr.
- 15 Hagler took that morning while I attended the balloon fly.
- 16 MR. DONOHUE: All right. And does that date
- 17 correspond to the balloon fly, that July 26th date?
- 18 MR. SEVERSON: Yes. That is the correct date.
- MR. DONOHUE: Okay. So, let's talk about it as we
- 20 go from left to right here. The first photo up there and
- 21 then shown as 1A.
- MR. SEVERSON: The first photo, 1A?
- MR. DONOHUE: Uh-huh.
- 24 MR. SEVERSON: That would have been a picture Mr.
- 25 Hagler took when he went up to the area right by the pool

1 and turned around facing Fairland Road and took a photo of

- 2 the balloon.
- 3 EXAMINER: Were you there when he took these
- 4 photos?
- 5 MR. SEVERSON: I was there.
- 6 EXAMINER: Okay.
- 7 MR. DONOHUE: What's shown in, in photo 2?
- 8 EXAMINER: That would be 74C?
- 9 MR. DONOHUE: No. It's 74B but it's, it's what's
- 10 marked as photo 2 there on that, on B.
- 11 EXAMINER: My, my set, I have, mine is, are mine
- 12 out of order?
- MR. SEVERSON: I'm sorry, ma'am. We're on page 2.
- 14 This photo 2 right here is
- MR. HAGLER: She has the wrong one.
- 16 EXAMINER: Maybe I have it backwards.
- 17 MR. HAGLER: I'm sorry. It does look like you
- 18 received --
- 19 EXAMINER: It is out of order.
- MR. DONOHUE: I think yours is out of order.
- 21 EXAMINER: Huh?
- MR. DONOHUE: Here. I'll give you this one?
- 23 EXAMINER: You gave me the wrong one?
- MR. HAGLER: I have two things that I --
- 25 MR. DONOHUE: See how she quickly blamed you and

- 1 not me?
- MR. HAGLER: Yeah. No. It's looking at the page.
- 3 EXAMINER: Hang on. I'll blame you. I'm just
- 4 making sure I --
- 5 MR. HAGLER: Yes. Take that one back. That's the
- 6 wrong. That'll be 75.
- 7 EXAMINER: Okay. So, I can just switch it around.
- 8 Just make sure we're on the same page.
- 9 MR. DONOHUE: This is what I was referring to as
- 10 B, 1, 2, 3.
- 11 EXAMINER: So, let's see, and right. I don't even
- 12 have numbers. Okay. So, let's do this again. The one that
- 13 I have, I'm going to mark as 74 A, B, and C. Also, it says
- 14 1 of 3.
- MR. DONOHUE: Yes.
- 16 EXAMINER: So, A will be 1, B will be 2, and C
- 17 will be 74C. Okay. Great. So, now we're on the same page.
- 18 That's good.
- MR. DONOHUE: Sorry about that.
- 20 EXAMINER: Always helpful. But, with all these
- 21 documents, it's understandable that you slipped me the wrong
- 22 one. Okay. Go ahead, Mr. Severson.
- MR. SEVERSON: So, then --
- 24 EXAMINER: You're on page 2.
- MR. SEVERSON: Yes, ma'am.

- 1 EXAMINER: Okay.
- 2 MR. SEVERSON: On page 2, looking at photo 2.
- 3 These are pictures taken from the location right, just south
- 4 of the pool area, and what it's doing is looking south
- 5 towards Fairland Road. It's showing the large green space,
- 6 basketball courts, and then tennis courts and then a limited
- 7 number of trees which are, in this picture, blocking
- 8 Fairland Road.
- 9 EXAMINER: Okay.
- 10 MR. DONOHUE: Okay. Should we go to 74C?
- 11 MR. SEVERSON: There's 3 and 4 here on page 3,
- 12 Exhibit 74C. These are photos taken from the opposite side
- 13 of the club house area. These are, again, looking south and
- 14 photo 3A, that's a shot of my balloon fly.
- MR. DONOHUE: Uh-huh.
- MR. SEVERSON: And photo 4 would just show looking
- 17 northward from the site, the grassy area, the pool, and then
- 18 the swim club.
- MR. DONOHUE: Okay. Justin, you gave us the, the
- 20 description of the facility as a flag pole. Is that
- 21 correct?
- MR. SEVERSON: Yes. That is correct.
- MR. DONOHUE: All right. And is that a standard
- 24 design for telecommunications?
- 25 MR. SEVERSON: It is a standard design in

- 1 telecommunications. So --
- 2 MR. DONOHUE: And where do the antennae occur in
- 3 a, in a flag pole install?
- 4 MR. SEVERSON: The antennas are inside the pole
- 5 itself. Canisters which hold the antennas --
- 6 MR. DONOHUE: Uh-huh.
- 7 MR. SEVERSON: -- are located. It's all uniform
- 8 looking from the outside. There's no disturbances though.
- 9 It's self-contained.
- 10 MR. DONOHUE: So, the antennae's visible to the --
- 11 MR. SEVERSON: The antennas are not visible.
- 12 MR. DONOHUE: All right. And what about
- 13 connections between the antennae and ground equipment.
- MR. SEVERSON: The coax cable that connects the
- 15 antennas to the ground equipment is run inside the pole.
- 16 So, it's not visible from the outside.
- MR. DONOHUE: All right. And you familiar with
- 18 the, with the ground equipment that T-Mobile proposes for
- 19 install here?
- MR. SEVERSON: Yes. I see there's a, there is a
- 21 35' x 40' compound that T-Mobile would like to put at the
- 22 base on the tower of the, have a perimeter of eight foot
- 23 board on board fence, and the equipment, there are two
- 24 cabinets is what's proposed, and it's my understand that
- 25 those will, those will go on raised concrete piers

- 1 supporting a steel grade that will hold those cabinets.
- 2 MR. DONOHUE: All right. And then the purpose for
- 3 the ground equipment is to support the antennae on the pole.
- 4 Is that correct.
- 5 MR. SEVERSON: Yes. That is correct.
- 6 MR. DONOHUE: All right. What's the purpose of
- 7 the board fence?
- 8 MR. SEVERSON: The board fence is to shield the
- 9 compound from the outside so it's not visibly obtrusive.
- 10 There's also safety precautions having the perimeter secured
- 11 so no one wanders in our, into the property.
- MR. DONOHUE: All right. Is the compound,
- 13 surrounding the compound also, are there other improvements
- 14 planned to put in?
- 15 MR. SEVERSON: Yes. There's also landscaping that
- 16 will take place after construction. We will plant
- 17 vegetation and other kind of shielding from the compound and
- 18 then also with the property itself where this location is,
- 19 it sits down below Fairland Road. It's at a lower level
- 20 which is visible in these photos. You can see that it's
- 21 downhill from the, from where the swim, swimming pool is.
- 22 You can see that the setup sits at a much lower elevation
- 23 and then you can also barely see in photo 2 on page 2, 74B,
- 24 where the road itself is also at a higher, much higher,
- 25 elevation than the site where the flag pole will be

1 installed, and so, you can also, there, visible are, is the

- 2 heavy vegetation of the trees between the road and the site
- 3 where the flag pole will be.
- 4 MR. DONOHUE: All right. And you described the,
- 5 the cabinets as being interior to the compound. Correct?
- 6 MR. SEVERSON: Right. Those cabinets are inside
- 7 this board on board fenced area.
- 8 MR. DONOHUE: Right. Is there room within the
- 9 compound for additional ground equipment?
- 10 MR. SEVERSON: There is room inside the compound
- 11 for additional ground equipment should other carriers work
- 12 out leases with the swim club and T-Mobile to locate on the
- 13 pole.
- MR. DONOHUE: All right. You familiar with the
- 15 county's requirement for co-location?
- 16 MR. SEVERSON: I am familiar with the county's
- 17 requirement for co-location.
- 18 MR. DONOHUE: All right. So, does the site comply
- 19 with the requirement?
- MR. SEVERSON: Yes. The site complies with the
- 21 requirements with the county. There are, there is space for
- 22 other carriers should they require coverage in the area to
- 23 co-locate on this flag pole.
- 24 MR. DONOHUE: Would additional carriers have to
- 25 remove the fence, expand the compound, do anything to --

1 MR. SEVERSON: No. Additional carriers would not

- 2 have to do any type of expansion work to the compound or the
- 3 flag pole itself. There are canisters or compartments in
- 4 the flag pole that would hold their antennas, and there's
- 5 ground space available for any cabinets or equipment that
- 6 would need to be installed.
- 7 MR. DONOHUE: Very good. EXAMINER: Before we
- 8 move on, can I just --
- 9 MR. SEVERSON: Of course.
- 10 EXAMINER: I got a lot of question need. You
- 11 talked about the compound. You said it was on concrete?
- 12 And could you explain that because I, I know that was one of
- 13 the amendments was raising it on a steel grate but the
- 14 concrete that's being removed is the picnic area?
- 15 MR. DONOHUE: He can answer that but you'll recall
- 16 that we have the civil engineer to --
- 17 EXAMINER: Okay.
- 18 MR. DONOHUE: -- explain the details. So, that,
- 19 that might be best kept for --
- 20 EXAMINER: Might be more, okay. Just --
- 21 MR. DONOHUE: It may be, may be a good time to say
- 22 is that a typical design? What you described as the
- 23 compound, the cabinet install?
- MR. SEVERSON: A typical design in the, in the
- 25 idea that we're putting cabinets on the ground, and we'll

- 1 have a fenced area. We like to go with board on board
- 2 fences for, for the visibility aspects. Generally, the
- 3 cabinets, yes, do go on raised steel platforms or just a
- 4 steel platform itself. With this particular site to have
- 5 the cabinets raised in height not typical. No. Not
- 6 particularly. But that's a special consideration that was
- 7 made for the site.
- 8 EXAMINER: Right. And I understand why that was.
- 9 I just --
- 10 MR. DONOHUE: Yes.
- 11 EXAMINER: I just wanted to make sure I was
- 12 hearing correctly.
- 13 MR. DONOHUE: Yeah. And then, and when Camille
- 14 explains the, the civil aspects of it --
- 15 EXAMINER: Okay.
- 16 MR. DONOHUE: -- and then we can get into some
- 17 details.
- 18 EXAMINER: I can ask more questions on that. And,
- 19 I guess, too, and this just goes back, a little bit back. I
- 20 don't want to upset your flow --
- MR. DONOHUE: You're fine.
- 22 EXAMINER: But, when you started initially talking
- 23 about the criteria that you do looking for new sites for new
- 24 structures, you, you talked about the size and meeting all
- 25 the requirements of the setback. So, how did you get to

- 1 this one because there are setback issues?
- 2 MR. SEVERSON: There are, there are setback issues
- 3 related to this property. The other characteristics of this
- 4 property made it the best solution. The idea that it was
- 5 heavily shielded on all sides by trees which, you know,
- 6 helps with the nonvisibility --
- 7 EXAMINER: Uh-huh.
- 8 MR. SEVERSON: -- of the neighboring parcels and
- 9 also, just really the fact that it also sits lower than the
- 10 road and the surrounding properties. So, even if we make a
- 11 tower that's 125 feet, it's not the same as putting a 125
- 12 foot tower somewhere else because this lot of land does sit
- 13 lower than the road and the surrounding properties.
- 14 EXAMINER: So, the elevation was a factor in --
- MR. SEVERSON: Topography and the, and the trees,
- 16 the wooded nature of the property were both very heavily
- 17 considered factors in selecting this site.
- 18 EXAMINER: Okay. I just wanted to clarify your
- 19 criteria and then talk --
- MR. DONOHUE: Uh-huh.
- 21 EXAMINER: You know, they have the setbacks and it
- 22 didn't seem to mesh.
- MR. DONOHUE: Uh-huh.
- 24 EXAMINER: But, it's more than one criteria for
- 25 you is what I'm hearing.

1 MR. SEVERSON: Of course, of course we look for

- 2 sites that would meet every unit, wouldn't have any problems
- 3 with it. There just, in this area where I showed the map
- 4 earlier, we showed what our sites were, and I talked with
- 5 the three sites that were looked at as possible options.
- 6 This is the best site that we could, we could find to
- 7 install this facility.
- 8 EXAMINER: But, when you say possible options, I
- 9 mean, how do you determine that? How do you, just go around
- 10 and say well, we think that might work. We're going to see
- 11 if we can get a lease on that?
- MR. DONOHUE: Well, what, what Justin's testimony
- 13 explained was the search area down to the alternatives, and
- 14 he explained that there were three considered. One was the
- 15 elementary school.
- 16 EXAMINER: Right.
- MR. DONOHUE: One was a church. One was a Pepco
- 18 pole. He then testified that there were, well, he first
- 19 testified there were no co-location opportunities.
- 20 EXAMINER: All right. Got that.
- 21 MR. DONOHUE: He testified that three candidates
- 22 were identified and had to be eliminated for different
- 23 reasons.
- 24 EXAMINER: Right. But I guess I'm just saying
- 25 that existing opportunities are, one of these, on the

1 church, on the school, and Pepco that they already have

- 2 antennas on there --
- 3 MR. DONOHUE: No.
- 4 EXAMINER: -- or they do not?
- 5 MR. DONOHUE: No. These were, these were --
- 6 EXAMINER: Just --
- 7 MR. DONOHUE: -- candidates considered as in --
- 8 EXAMINER: -- candidates.
- 9 MR. DONOHUE: Well, let's, we can ask the witness.
- 10 Montgomery County Public Schools have had some antennae
- 11 installations. Is that correct?
- MR. SEVERSON: Yes. That is correct.
- MR. DONOHUE: All right. And are you familiar
- 14 with, for example, Sherwood High School?
- MR. SEVERSON: I know the high school.
- MR. DONOHUE: Okay. If you go to any of the
- 17 Montgomery County schools that have antennae installations?
- 18 MR. SEVERSON: I'm not familiar with other
- 19 telecommunication sites at high schools or schools in
- 20 Montgomery county.
- MR. DONOHUE: All right. Are you aware of the
- 22 county's policies toward sites on elementary schools?
- 23 Telecommunication facilities on them.
- MR. SEVERSON: I believe the county's viewpoint of
- 25 that, on that is unfavorable.

- 1 MR. DONOHUE: All right. So, when that was
- 2 identified as a candidate, it was based on just the parcel
- 3 or --
- 4 MR. SEVERSON: The parcel and the possibility of
- 5 the location and would it meet coverage needs, I think, was
- 6 the primary consideration before it goes into other
- 7 contacts.
- 8 MR. DONOHUE: So, it was, it was rejected upon a
- 9 leasing issue, I guess.
- 10 MR. SEVERSON: Yes.
- 11 MR. DONOHUE: All right.
- MR. SEVERSON: Yes.
- MR. DONOHUE: The, what I'm getting at, Madam
- 14 Chair, is that there's a, there's a combination here of land
- 15 use attributes --
- 16 EXAMINER: Uh-huh.
- 17 MR. DONOHUE: -- considerations that site
- 18 acquisition considers, and then the next witness is going to
- 19 amplify the, the need, if you will, and tie the two
- 20 together. I think at the end of that, I think you'll be
- 21 satisfied that we've --
- 22 EXAMINER: Okay.
- 23 MR. DONOHUE: -- we've covered the landscape.
- 24 EXAMINER: Okay.
- MR. DONOHUE: But, I appreciate the questions.

1 EXAMINER: Yeah. I'm sure some of my questions

- 2 are for the wrong person but --
- 3 MR. DONOHUE: That's all right.
- 4 EXAMINER: -- at least I get them out there and
- 5 hopefully, the next one --
- 6 MR. DONOHUE: I'm keeping notes.
- 7 EXAMINER: You're keeping notes. That's good.
- 8 MR. DONOHUE: Justin, I asked you whether this was
- 9 a standard installation, and I think you said yes but let me
- 10 ask a slightly different, maybe in a slightly different way.
- 11 The antennae, the support structure here is a flag pole --
- MR. SEVERSON: Uh-huh.
- MR. DONOHUE: -- which is sometimes referred to as
- 14 a stealth design. Is that correct?
- MR. SEVERSON: Yes.
- 16 MR. DONOHUE: All right. And the more typical
- 17 array or the more typical design on a pole would be what?
- 18 MR. SEVERSON: The more typical design on a pole
- 19 would be to have antennas, antennae supports mounted on the
- 20 exterior of the pole which antennas are then mounted to.
- 21 It's much more visibly obtrusive than a flag pole.
- 22 EXAMINER: Is that the triangle?
- 23 MR. SEVERSON: Yes. The triangle mounts. Yes.
- MR. DONOHUE: And so the width of those platforms
- 25 would be what, if you know?

1 MR. SEVERSON: I'm not sure I know the width of

- 2 those platforms now.
- MR. DONOHUE: Okay. So, okay. So, let me ask it
- 4 a different way then. Was the design, this site designed
- 5 for Twin Farms driven by considerations other than, for
- 6 example, RF needs or civil engineering needs?
- 7 MR. SEVERSON: Yes. The design for this site was
- 8 driven almost primarily by the need and make a site that
- 9 would blend in and not, not stick out or be visibly
- 10 obtrusive as a large tower with the triangle mounts on top
- 11 and antennas. This, this flag pole design is meant to blend
- 12 as best it can into the --
- 13 EXAMINER: Uh-huh.
- MR. SEVERSON: -- into the surrounding area.
- 15 EXAMINER: Okay.
- 16 MR. DONOHUE: Okay. Great. Thank you.
- 17 MR. SEVERSON: Okay.
- 18 EXAMINER: Are you done with him?
- 19 MR. DONOHUE: Well, I'd like him to stay around
- 20 but --
- 21 EXAMINER: No. No. You can stay. I didn't, I
- 22 didn't--
- 23 MR. DONOHUE: Yeah. I'm done with my direct.
- 24 Yes, ma'am.
- 25 EXAMINER: Okay.

- 1 MR. DONOHUE: Good. Thanks, Justin.
- 2 EXAMINER: So, I don't think I have any more
- 3 questions. So, you want him to stay here?
- 4 MR. DONOHUE: He's staying.
- 5 MR. SEVERSON: I'll stay.
- 6 EXAMINER: He's staying. In case he has to be
- 7 called back. Okay. Thank you, Mr. Severson. Your next
- 8 witness.
- 9 MR. DONOHUE: Curtis.
- MR. DONOHUE: You want to use that or what do you
- 11 want to use?
- MR. JEWS: I'll use a combination of both.
- MR. DONOHUE: Okay.
- 14 EXAMINER: Why don't you, want to have a seat --
- MR. JEWS: Sure.
- 16 EXAMINER: -- and I'll swear you in. Raise your
- 17 right hand. Do you swear or affirm under the penalty of
- 18 perjury that the testimony you're about to give is the
- 19 truth, the whole truth, and nothing but the truth?
- MR. JEWS: I do.
- 21 EXAMINER: Okay. State your name and your address
- 22 and wait for Mr. Donohue to ask you questions.
- MR. JEWS: Sure. My name is Curtis Jews.
- 24 EXAMINER: Uh-huh.
- MR. JEWS: Last name is J-E-W-S, and I'm the radio

- 1 frequency lead engineer for T-Mobile.
- 2 EXAMINER: Okay. And I see that he has, you, you
- 3 submitted his Exhibit A. So, I recognize well.
- 4 MR. DONOHUE: He has, and he has been qualified as
- 5 an expert witness in the past. Is that correct?
- 6 MR. JEWS: That is correct.
- 7 MR. DONOHUE: All right. How long have you been
- 8 an RF or radio frequency engineer?
- 9 MR. JEWS: Over 12 years.
- 10 MR. DONOHUE: In this market?
- 11 MR. JEWS: Multiple markets.
- MR. DONOHUE: All right. For example?
- MR. JEWS: New York. West Indies. All over the
- 14 United States. Too many to name.
- 15 EXAMINER: Can you speak up a little bit.
- MR. JEWS: Sorry.
- 17 EXAMINER: You have a pretty soft voice.
- 18 MR. JEWS: Sorry.
- 19 EXAMINER: Can you hear, Court Reporter?
- MS. MONTES: Yes.
- 21 EXAMINER: Do you need to move that blue thing is
- 22 the mic okay? We're good?
- MS. MONTES: No. That's fine.
- 24 EXAMINER: Okay.
- MR. DONOHUE: Curtis, what's your, what's your

1 role with T-Mobile? What's your, what's your present job

- 2 description if you know?
- MR. JEWS: Once again, the radio frequency lead
- 4 engineer, lead design engineer, and my responsibilities,
- 5 just to quickly summarize, is to identify areas that are
- 6 providing less than desirable or unreliable coverage. Also,
- 7 just to expand the network, just to be brief.
- 8 MR. DONOHUE: Okay. And what's your educational
- 9 background?
- 10 MR. JEWS: In 1996, I received my I-certification
- 11 in computer technology and field service.
- MR. DONOHUE: And since '96, you've been working
- in various capacities in telecommunications?
- MR. JEWS: Yes.
- MR. DONOHUE: All right. And your resume is below
- 16 this. You, you answered yes when I asked you had you been
- 17 qualified before. So, you're familiar with the proceedings
- 18 we're talking about here today?
- 19 MR. JEWS: Yes. I am.
- MR. DONOHUE: And your understanding would be
- 21 based on experience with RF and network design. Is that
- 22 correct?
- MR. JEWS: That's correct.
- MR. DONOHUE: All right. Madam Chair, I think
- 25 he's, his qualifications are ample.

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1 EXAMINER: Okay. Just so I'm clear. His
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- 2 expertise is radio frequency and network design?
- 3 MR. DONOHUE: Yes.
- 4 EXAMINER: Okay. And yes, I was here recently and
- 5 I think Mr. Grossman --
- 6 MR. DONOHUE: I got you. Okay. Very good.
- 7 EXAMINER: Yeah. So, I'll accept him as an
- 8 expert.
- 9 MR. DONOHUE: I think I was told that at some
- 10 point. So --
- 11 EXAMINER: But it's good to go through this.
- MR. DONOHUE: All right. Thank you.
- 13 EXAMINER: Thank you, Mr. Jews.
- MR. JEWS: No problem
- MR. DONOHUE: Curtis, would you explain to us what
- 16 your, what your task was in connection with the Twin Farms
- 17 site?
- 18 MR. JEWS: Sure. This area was identified as an
- 19 area that is providing less than desirable coverage for our
- 20 customers in this area. Customer complaints is one of the
- 21 main things that was the motivating factor for us to look at
- 22 ways to improve the coverage or service in this area.
- 23 MR. DONOHUE: All right. You heard Mr. Severson
- 24 talk about the, the search ring.
- MR. JEWS: That's correct.

- 1 MR. DONOHUE: It might be helpful for us to hear
- 2 from your view, from the RF engineer's view point, what does
- 3 a search ring mean to RF?
- 4 MR. JEWS: Okay. Once I identify an area that
- 5 needs to have the improved coverage, I release what's called
- 6 a search ring. This search ring can be a radius of about a
- 7 quarter of a mile or a half of a mile. It is a ring that is
- 8 sort of like a polygon, if you will, where I'm looking for,
- 9 within this area or polygon or search ring --
- 10 EXAMINER: Uh-huh.
- 11 MR. JEWS: -- for the site acquisition agents to
- 12 find the properties that will allow me to construct if, if
- 13 there are any, there aren't any co-locatable structures,
- 14 existing structures, to find an area that meets the
- 15 elevations that I'm looking for, part is terrain and
- 16 visibility or line of site of the area.
- MR. DONOHUE: So, did you release the search ring?
- 18 MR. JEWS: I did.
- 19 MR. DONOHUE: Okay. And that was based on
- 20 customer complaint or need or --
- 21 MR. JEWS: Customer complaints. Network
- 22 statistics. Those are the two main things.
- MR. DONOHUE: All right.
- 24 EXAMINER: Narrate a little bit on network
- 25 statistics and --

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1 MR. JEWS: Yes. Network statistics. As far as
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- 2 dropped calls, it could be dropped calls, also call volume.
- 3 Those two things.
- 4 MR. DONOHUE: What's a dropped call, Curtis?
- 5 MR. JEWS: Dropped calls are when you're in the
- 6 middle of a call, conversation, and the call is ended
- 7 abruptly where no one has pressed, if you will, end.
- 8 There's not a normal termination of the call. That's a
- 9 dropped call.
- 10 MR. DONOHUE: What's a blocked call?
- 11 MR. JEWS: A blocked call is when --
- 12 EXAMINER: Blocked?
- MR. DONOHUE: Blocked.
- MR. JEWS: Blocked.
- 15 EXAMINER: Blocked.
- 16 MR. JEWS: Yes. A blocked call is, that's more of
- 17 a capacity issue where there's not enough resources where
- 18 you're wanting to place a call then you're unable to because
- 19 of there's so much call volume that there aren't, there
- 20 isn't enough space, if you will. So, let me just say this.
- 21 If we're, if you're on a highway, now we have highway
- 22 expansions because of the number of cars. So, we have to
- 23 expand the roads. That's pretty much what we're doing with
- 24 some of these sites.
- 25 EXAMINER: There's not enough room on the

- 1 waves--
- 2 MR. JEWS: On the network. On their particular
- 3 site or site.
- 4 EXAMINER: -- for people to, so that's when you're
- 5 looking and it says unable to make call?
- 6 MR. JEWS: Correct. Call failed. Call failure.
- 7 That's it.
- 8 EXAMINER: Got a term.
- 9 MR. DONOHUE: So, is the issue, well, when you
- 10 released the search ring that we refer to here as the Twin
- 11 Farms site --
- MR. JEWS: Uh-huh.
- MR. DONOHUE: Was it an attempt to address a
- 14 capacity issue or a coverage issue?
- MR. JEWS: This is more so, though there's a high
- 16 call volume in the area but this is mostly a coverage issue.
- MR. DONOHUE: So, there's a lack of, of, there's a
- 18 lack of network, a lack of coverage in the area. Correct?
- 19 MR. JEWS: That's correct.
- 20 MR. DONOHUE: All right. And, and there were
- 21 propagation maps that I referred to earlier.
- MR. JEWS: Uh-huh.
- 23 MR. DONOHUE: I'm sure you were here, and you
- 24 heard us talk about that.
- MR. JEWS: Yes.

1 MR. DONOHUE: The pretty colored maps that the

- 2 Chair is holding up here.
- 3 MR. JEWS: Can I?
- 4 MR. DONOHUE: You sure can.
- 5 EXAMINER: Those copies don't copy very well. So,
- 6 now I'm looking at 10A and 10B. Those are the propagation
- 7 maps I had.
- 8 MR. DONOHUE: Yeah. He's going to put them up on
- 9 the board here.
- 10 EXAMINER: Okay. Great.
- MR. DONOHUE: And rather than use the lay
- 12 explanation which I've given and the first witness gave, why
- don't you tell us what we're looking at here as you're
- 14 putting in, installing.
- MR. JEWS: Sure.
- 16 EXAMINER: And let's just, for the record, the
- 17 first one is says existing coverage. So, that would be 10A
- 18 that you're --
- 19 MR. JEWS: Correct.
- 20 EXAMINER: Yeah. Okay. So, you're looking at
- 21 10A.
- 22 MR. JEWS: Okay. Yes. So, this is Exhibit 10A
- 23 which is titled existing coverage, and let me explain the
- 24 colors.
- 25 EXAMINER: Okay.

- 1 MR. JEWS: You have green which is your in
- 2 building coverage. The coverage that you can expect in your
- 3 home or business. The blue is your in vehicle coverage.
- 4 What you can expect in your automobile when you're using a
- 5 phone in your automobile. Hopefully, using your hands free,
- 6 and yellow is the coverage that you can expect when you're
- 7 holding the phone to, to your ear or using your hands free
- 8 when you're walking along the street. So, that's just an
- 9 explanation of the colors.
- MR. DONOHUE: Curtis, before you go to the next
- 11 map, will you, will you call out the streets that we're
- 12 looking at there so we have orientation?
- MR. JEWS: Sure. Okay. The subject site is here
- 14 which is now explained here. It's labeled as Seven Wire and
- 15 286D, and I'm not sure.
- 16 EXAMINER: Fairland?
- 17 MR. JEWS: Yeah. I think that's Fairland. Yeah
- 18 Just to give it some direction out there helps.
- 19 MR. DONOHUE: Well, let's ask it this way. Is the
- 20 map oriented north and south?
- 21 MR. JEWS: It is north. Yes.
- MR. DONOHUE: Okay.
- MR. JEWS: North/south.
- MR. DONOHUE: So, the east/west road that you're
- 25 pointing to. Go ahead and point. The east/west road that

- 1 you're pointing to there is what road?
- 2 MR. JEWS: Fairland.
- MR. DONOHUE: Okay. And how about the north/south
- 4 road over to the left?
- 5 MR. JEWS: To the west --
- 6 MR. DONOHUE: To the west is Market Way and --
- 7 MR. JEWS: New Hampshire Avenue.
- 8 MR. DONOHUE: Got it.
- 9 MR. JEWS: So, what you're, what you're seeing
- 10 here is a predominant level of in vehicle coverage which is
- 11 your blue, and you're seeing spots of yellow. Now, keep in
- 12 mind that this area is highly, it is densely residential,
- 13 dense residential. So, with the current levels that are
- 14 serving this area, will not be sufficient to keep a call
- 15 without experiencing a dropped call in your home or, in your
- 16 home. Let's just say in your house since this is mostly
- 17 residential, not business. Can I go to the next exhibit?
- 18 EXAMINER: So, your, the, the blue area is, that's
- 19 the in home?
- MR. JEWS: That's the in home.
- 21 EXAMINER: You're not, you're not getting,
- 22 keeping, getting calls, keeping the calls if you were to get
- 23 it in the house.
- MR. JEWS: That's correct. If you're able to
- 25 place it, it's, it's not likely that it will stay up as you

1 would like. It would most likely terminate or you may not

- 2 be able to make a call depending on the situation or where
- 3 you are.
- 4 EXAMINER: Okay. And can, and maybe you'll get to
- 5 this at some point but the number 76dBm. Those
- 6 numbers --
- 7 MR. JEWS: Sure. The dBm levels?
- 8 EXAMINER: Uh-huh.
- 9 MR. JEWS: Yeah. Those are just dBm levels.
- 10 Those are just ways of measuring the signal strength of, of
- 11 your in building signal strength, of your in vehicle signal
- 12 strength, of your on street. I think you may be thinking in
- 13 terms of bars.
- 14 EXAMINER: Oh. Okay.
- MR. JEWS: But, but these are not, this is not
- 16 bars. These are more say technica if you will.
- 17 EXAMINER: Okay.
- 18 MR. DONOHUE: May be, may be helpful if we say
- 19 this, Curtis.
- MR. JEWS: Yeah.
- MR. DONOHUE: What's from best to worst on that,
- 22 on that --
- 23 MR. JEWS: That says your in building worst is
- 24 your on street.
- MR. DONOHUE: So, best being green?

1 MR. JEWS: Best being green. Can I go to the next

- 2 exhibit?
- 3 EXAMINER: Sure.
- 4 MR. JEWS: Okay. Moving to Exhibit, I think, 10B?
- 5 EXAMINER: Correct.
- 6 MR. JEWS: This is labeled as an existing coverage
- 7 with 7WAN286D at 125 feet. Now, as you can tell, there's a
- 8 significant improvement where there was predominantly blue
- 9 and spots of yellow have now become predominantly green and
- 10 blue. So, you see the improvement that would happen with
- 11 this proposed facility if it is constructed.
- MR. DONOHUE: Curtis, to, to go back just a little
- 13 bit. You can stay on that graphic but --
- MR. JEWS: Sure.
- MR. DONOHUE: The sites that are shown there, for
- 16 example, north and west is when 280C --
- 17 MR. JEWS: Uh-huh.
- 18 MR. DONOHUE: -- due west when, I think it's 004,
- 19 Curtis.
- MR. JEWS: 004. That's correct.
- 21 MR. DONOHUE: All right. What are those? What
- 22 are those icons? What are those meant to show?
- 23 MR. JEWS: Okay. Those are meant to show that
- 24 these are sites that are on air currently where T-Mobile has
- 25 placed antennas on these existing facilities to provide

- 1 service.
- 2 EXAMINER: Did you say 280C?
- 3 MR. JEWS: Yes.
- 4 EXAMINER: They're not the ones on, on the New
- 5 Hampshire Avenue site?
- 6 MR. JEWS: Yes. On 10B, Exhibit 10B.
- 7 EXAMINER: Correct.
- 8 MR. JEWS: And the WAN280C is north, northwest of
- 9 the proposed facility, 7WAN286D.
- 10 EXAMINER: These are --
- 11 MR. JEWS: These are existing on air T-Mobile
- 12 sites.
- 13 EXAMINER: T-Mobile.
- MR. JEWS: Right. T-Mobile sites only.
- MR. DONOHUE: And just to complete the geography,
- 16 the site to the east, southeast is WAN --
- 17 MR. JEWS: 019.
- MR. DONOHUE: All right. Also on air?
- 19 MR. JEWS: That's correct.
- MR. DONOHUE: Okay.
- MR. JEWS: Do you want me to continue?
- MR. DONOHUE: Sure.
- 23 MR. JEWS: And south of WAN019 is IWAN864. Let
- 24 me explain that. I means it's an in building site. Some of
- 25 our commercial accounts, they would like to have their own

1 site, if you will, or a microsite inside of their buildings

- 2 to provide service to, to only themself due to the lack of
- 3 coverage that they're looking for. South of this in
- 4 building site is 7WAN124I, also an on air site, a T-Mobile
- 5 on air site.
- 6 MR. DONOHUE: All right. What about the area that
- 7 is north of Twin Farms, north of WAN286?
- 8 MR. JEWS: Okay. That area is, I'm sure all of
- 9 you know, there's a construction of the ICC.
- MR. DONOHUE: We heard something about that.
- 11 EXAMINER: Yeah. Okay.
- MR. DONOHUE: So, is that a future area, future
- 13 coverage area?
- MR. JEWS: That may be. Yes.
- MR. DONOHUE: All right. What, what was the
- 16 purpose for these maps? What were these produced? What
- 17 were they submitted, what were they, what were they produced
- 18 for?
- MR. JEWS: Why were they produced?
- 20 MR. DONOHUE: Why were they produced? Yes.
- 21 MR. JEWS: Just to demonstrate the need to show
- 22 pretty much a before and after, if you will, of the, the
- 23 coverage in the area.
- MR. DONOHUE: Were they submitted to, for example,
- 25 Tower Committee?

- 1 MR. JEWS: Yes. They were.
- 2 MR. DONOHUE: All right. And did the Tower, has
- 3 the Tower Committee reviewed this type of material, done
- 4 this on this case? They looked at your, at your propagation
- 5 maps, I guess.
- 6 MR. JEWS: Yes, sir. Yes.
- 7 MR. DONOHUE: Okay. Were the maps also shared
- 8 with the community at the meeting back in August?
- 9 MR. JEWS: Yes.
- 10 MR. DONOHUE: All right. And you were at that
- 11 meeting. Is that correct?
- 12 MR. JEWS: Yes. I was.
- MR. DONOHUE: Okay. And were there questions
- 14 about need and drops and blocks and those kinds of things?
- MR. JEWS: Very few. Just wanted to see what the
- 16 coverage would be like at the improvement, and that was, I
- 17 think, the extent of it.
- MR. DONOHUE: Okay.
- 19 MR. JEWS: As far as I can remember.
- 20 MR. DONOHUE: Did you attend the Tower Committee
- 21 review in consideration of this?
- MR. JEWS: I don't believe so.
- MR. DONOHUE: Okay. All right. The Chair asked
- 24 you about the, the levels, and I think they're in the, right
- 25 on the legend up there in the left.

- 1 MR. JEWS: Uh-huh.
- 2 MR. DONOHUE: The in building which is indicated
- 3 by green there is shown as neg76. Is that correct?
- 4 MR. JEWS: That's correct.
- 5 MR. DONOHUE: All right. And is that the, is that
- 6 the network, is that the T-Mobile network design criteria?
- 7 MR. JEWS: That is the T-Mobile network. That is
- 8 our standard. That is based on what we call a link budget.
- 9 Is where we take into the account of the losses that you
- 10 will encounter from the, what we call, uplink and downlink.
- 11 Uplink is from your mobile to the antennae. Downlink is
- 12 from the antennae down to your mobile, and there's also,
- 13 there's certain losses that are associated with that. So,
- 14 we have to take all that into account in order to get this
- 15 threshold here. So, this allows me to design, probably, to
- 16 say confidently that if, I say if you place this site here
- 17 at this height, this is the type of coverage that you will
- 18 expect.
- 19 MR. DONOHUE: All right. The questions that I was
- 20 asking about the flag pole design --
- MR. JEWS: Yes.
- 22 MR. DONOHUE: -- are aesthetic considerations.
- 23 Isn't that fair to say?
- MR. JEWS: That's fair to say.
- MR. DONOHUE: Are there RF considerations on a, on

- 1 a flag pole design?
- 2 MR. JEWS: No. I can't say there are any major
- 3 concerns when it comes to that. Mostly it's just aesthetic.
- 4 MR. DONOHUE: Okay. So, that the, for example,
- 5 the interior install that we're proposing here --
- 6 MR. JEWS: Uh-huh.
- 7 MR. DONOHUE: -- doesn't cause additional work or
- 8 additional --
- 9 MR. JEWS: No.
- 10 MR. DONOHUE: -- worries on a part of our --
- 11 MR. JEWS: That's correct.
- 12 MR. DONOHUE: Fine. You had mentioned and briefly
- 13 talked about the drops and the blocks. Are there also
- 14 considerations, for example, on 911?
- MR. JEWS: That's correct.
- 16 MR. DONOHUE: And, and how do you, how do you look
- 17 at the 911 data or what is, why don't you explain what that
- 18 is?
- 19 MR. JEWS: Sure. We also look at, we consider
- 20 the, the, the probability of our customers being able to
- 21 make a 911 call successfully. As you know, obviously, that
- 22 is very important, and right now with the coverage as it is
- 23 where you're unable to make a call, that plays a part in the
- 24 need for this facility. For, that is, I forgot to mention,
- 25 yes. That is another thing that we do consider.

- 1 MR. DONOHUE: And how is that, how do you
- 2 establish that 911 data?
- MR. JEWS: I am able to pull stats that show
- 4 whenever 911 is actually dialed and initiated, and I'm able
- 5 to look at how many times that has occurred.
- 6 MR. DONOHUE: By pulling it, you mean from other
- 7 T-Mobile facilities?
- 8 MR. JEWS: Switch data. Correct.
- 9 MR. DONOHUE: So, for example --
- 10 MR. JEWS: Of these, of these on air neighboring
- 11 sites within this, the first tier here.
- 12 EXAMINER: So, it's the data for the other ones?
- MR. JEWS: Correct. Only for, and let me explain.
- 14 Only for these current on air sites.
- 15 EXAMINER: Uh-huh.
- MR. JEWS: But, only for the antennas that serve
- 17 this area, and the, the sites typically have three sections.
- 18 You have A, B, and C or sectors, sectors A, sector B,
- 19 sector C. Sometimes they're pointed and may be it north or,
- 20 or southeast or west. It depends on the coverage objective
- 21 that I'm looking for. But, what I've done is only looked at
- 22 the antennas that are pointing to this affected area here.
- 23 EXAMINER: So, those would be which ones?
- MR. JEWS: These sites that you have here with
- 25 these red label side of these.

1 EXAMINER: All the red ones. Okay. So, the ones

- 2 on the map --
- 3 MR. JEWS: That's correct.
- 4 EXAMINER: Okay.
- 5 MR. JEWS: Right. These are the only ones that
- 6 serve this area. Well, have antennas that serve this area.
- 7 EXAMINER: And how it's serving it using 10A which
- 8 is --
- 9 MR. JEWS: That's correct.
- 10 EXAMINER: That's the extent of --
- 11 MR. JEWS: That's correct.
- 12 EXAMINER: -- what it can serve.
- MR. JEWS: Uh-huh. Right. This is what --
- 14 EXAMINER: And this would be what it would like if
- 15 --
- MR. JEWS: If this, 10, the proposed facility is
- 17 incorporated.
- MR. DONOHUE: Okay. Thank you.
- 19 EXAMINER: Network statistics. You, you mentioned
- 20 you pull up network statistics. Is that what you're talking
- 21 about with what you just mentioned?
- MR. JEWS: Yes. Yes.
- 23 EXAMINER: Okay. And that would be the sectors
- 24 looking --
- MR. JEWS: Yes.

- 1 EXAMINER: -- and seeing how.
- 2 MR. JEWS: Sector antennas that point to this area
- 3 of service.
- 4 EXAMINER: And is there a threshold in terms of, I
- 5 think you said T-Mobile had its own interior criteria or
- 6 criteria as to whether, I don't know. Is it worth going out
- 7 and looking for another site or is there a formula or is
- 8 that, is it just based on the complaints, 911 calls, and --
- 9 MR. JEWS: It's a combination of both. There is a
- 10 formula. Usually, we like to be at least under two percent
- 11 if possible.
- 12 EXAMINER: Under two percent?
- MR. JEWS: Of the dropped calls, 911 calls, but
- 14 that's, but that's also the customer complaints, and that's
- 15 just not the only factor. That's part of it but that's just
- 16 one of many factors that goes into us saying okay. Let's us
- 17 go out and try to find a facility to construct.
- 18 MR. DONOHUE: A two percent failure rate. Is that
- 19 a fair --
- MR. JEWS: Yeah. That's correct.
- 21 EXAMINER: And right now, the failure is more than
- 22 two percent?
- 23 MR. JEWS: Way exceeding that. That's correct.
- 24 Because of a, the high call volume in this area, we're above
- 25 that.

- 1 EXAMINER: And how much? I mean --
- MR. JEWS: Right now, we're at four to five
- 3 percent.
- 4 EXAMINER: Failure? And the dropping is the
- 5 failure rate?
- 6 MR. JEWS: Call failure.
- 7 EXAMINER: Call failure. All right. And if you
- 8 didn't receive complaints, which is probably an oxymoron,
- 9 but if you didn't receive complaints, this is not something
- 10 that you would search out or you would search out anyway?
- 11 MR. JEWS: I would search out anyway.
- 12 EXAMINER: Okay. This just happened to have the,
- 13 the call data information you needed or you wanted. What
- 14 did you mention to elevation?
- MR. JEWS: That goes into the --
- 16 EXAMINER: The criteria that you were talking
- 17 about --
- MR. JEWS: Uh-huh. Yes.
- 19 EXAMINER: In the search ring --
- MR. JEWS: Uh-huh.
- 21 EXAMINER: -- into the radius a quarter of a mile
- 22 to half mile and, and that, when you say search ring, the
- 23 center being Twin Farms. Is that correct or --
- MR. JEWS: That is, this, this property is,
- 25 I would say, close to the search ring center.

- 1 EXAMINER: Okay.
- 2 MR. JEWS: But yeah. I'll speak to that. The
- 3 elevation. This part, this section here, the swim club,
- 4 sits on from what I remember the highest part of the ground
- 5 elevation here as you move east, the ground elevation starts
- 6 to descend.
- 7 EXAMINER: Uh-huh.
- 8 MR. JEWS: There's a difference of about from here
- 9 to moving east, it looked as about a plus 90 or 100 feet.
- 10 EXAMINER: Uh-huh.
- 11 MR. JEWS: So, the visibility is an issue. Also,
- 12 with the number of trees in the area which is common in
- 13 residential areas provided another challenge. That's
- 14 another reason why, if you notice these sites here, this
- 15 green just stops. It starts to stop in this area, and it's
- 16 because of that.
- 17 EXAMINER: Uh-huh.
- 18 MR. JEWS: Because of the topography. It's
- 19 because of the, the amount of surrounding trees.
- 20 EXAMINER: And in terms of determining the height
- 21 of the pole based on the elevation and the topography area,
- 22 you did 125. Is, is that the lowest that you can, that it
- 23 can go or how do you determine that? Because I know you can
- 24 go up to 155.
- 25 MR. JEWS: That is correct.

1 EXAMINER: How does that, how is that determined

- 2 for a site?
- MR. JEWS: I'll say this. Because of, for one, if
- 4 you notice the design of this site. We're, we're trying to
- 5 make it as aesthetic and pleasing as possible.
- 6 EXAMINER: Uh-huh.
- 7 MR. JEWS: Yes. I could go a lot taller. But, to
- 8 try to make it aesthetically pleasing as possible, I've
- 9 decided to say, okay. What is the minimum height that I can
- 10 use to still meet my coverage objective? To not make it so
- 11 tall that it's truly offensive to one's view? So, I chose a
- 12 125 feet.
- 13 EXAMINER: Well, I guess my question is, is if it
- 14 were below 125, it's, it's still useable or at 125, you're,
- 15 you're taking away service that you need.
- 16 MR. JEWS: That's correct. Because of, once
- 17 again, the challenge is the topography and the number of
- 18 trees. I need to get the best line of sight that I can, and
- 19 if I start to go any lower than that then I'm going to start
- 20 to, start to, to degrade this here.
- 21 EXAMINER: The ring would be less?
- MR. JEWS: Correct.
- 23 EXAMINER: Okay.
- MR. JEWS: This, this radius of green would
- 25 be a lot smaller.

1 MR. DONOHUE: Curtis, you heard Justin explain

- 2 that a church was given consideration. One of the
- 3 candidates was a church steeple.
- 4 MR. JEWS: Uh-huh.
- 5 MR. DONOHUE: And I believe he said that it will
- 6 give you rad center approximately 40 feet.
- 7 MR. JEWS: Yeah.
- 8 MR. DONOHUE: And you may not know the church
- 9 location but would you care to guestimate what the
- 10 degradation would be coming down from a rad center of 120?
- 11 MR. JEWS: Yeah. The coverage rate is, that we
- 12 see here, it would not be anything close to that. Now, no.
- is that scientific? I'm telling you that I'm just
- 14 guesstimating. But, I mean, if 125 feet gives me this type
- 15 of coverage radius, you can imagine what 40 feet would be
- 16 significantly smaller. I do know that. So, meeting my
- 17 coverage objective, it would not do that, using that
- 18 facility and that property.
- 19 MR. DONOHUE: Okay. And when you were talking
- 20 about the metrics. I'm talking about the drops and blocks
- 21 and T-Mobiles goal to be two percent or less --
- MR. JEWS: Uh-huh.
- 23 MR. DONOHUE: -- looking at your resume, I know
- 24 that you've worked for other wireless providers here and
- 25 elsewhere.

- 1 MR. JEWS: Yeah.
- 2 MR. DONOHUE: Do other wireless carriers have
- 3 similar metrics?
- 4 MR. JEWS: They do.
- 5 MR. DONOHUE: And, and look at performance. For
- 6 example, such things as drops and blocks as you've
- 7 described?
- 8 MR. JEWS: That's correct.
- 9 MR. DONOHUE: And customer complaints?
- 10 MR. JEWS: That's correct.
- MR. DONOHUE: So, is T-Mobile's charge to it's RF
- 12 engineers similar, for example, to Cingular and some of the
- 13 other carriers you worked with.
- MR. JEWS: They're very, very similar.
- MR. DONOHUE: Okay. You talked about the
- 16 residential or in building, the green, the neg76 being
- 17 suitable for in building service. Correct?
- 18 MR. JEWS: That's correct.
- 19 MR. DONOHUE: All right. Is T-Mobile seeking to
- 20 serve the residential customers?
- MR. JEWS: Yes.
- 22 MR. DONOHUE: And, and what's driving that, if you
- 23 know? What's, what's the, what's the desire there?
- MR. JEWS: Well, obviously, we use our phones to
- 25 talk but the, the biggest thing now is to use our phones for

1 data usage. Smart phones is, are really popular now. So,

- 2 the ability to surf the internet, text, stream, is, is one
- 3 of the biggest trends now, and we don't see it slowing down.
- 4 So, right now, once again, with the coverage at its current
- 5 state, our customers are unable to do that at this moment in
- 6 a reliable way.
- 7 MR. DONOHUE: All right. So, that the maps that
- 8 you are showing here are both. They're meant to reflect
- 9 voice usage and data usage. Is that correct?
- 10 MR. JEWS: That is correct.
- MR. DONOHUE: All right. And when we talk about
- 12 the residential customers, are these folks without land
- 13 lines? Is that --
- MR. JEWS: I don't think they're without land
- 15 lines but I do know that people are now using their mobile
- 16 phones as their home phones. At least B-.
- 17 MR. DONOHUE: Is that similar to the experience
- 18 the other carriers are having, if you know?
- MR. JEWS: Yes.
- 20 MR. DONOHUE: So, the desire to meet that
- 21 residential demand is, in part, what's driving your task.
- 22 Is that fair to say?
- MR. JEWS: That is fair.
- MR. DONOHUE: Okay. All right. Anything else on
- 25 these graphics that you want to tell us?

- 1 MR. JEWS: No, sir. Nothing to say.
- 2 EXAMINER: I want to follow-up and tell me if this
- 3 is the correct witness.
- 4 MR. DONOHUE: I will.
- 5 EXAMINER: In looking at the one letter of
- 6 opposition--
- 7 MR. DONOHUE: Uh-huh.
- 8 EXAMINER: I don't know if you have seen it or if
- 9 you have a copy or not.
- MR. DONOHUE: I do. Yes.
- 11 EXAMINER: Would you ask him to look at, he raised
- 12 four different issues, and I don't know if any of those
- 13 issues are ones that you can comment on, and it's Exhibit
- 14 48.
- MR. DONOHUE: I'll get it. One second here. Have
- 16 you seen this?
- 17 EXAMINER: Yeah.
- 18 MR. JEWS: I have not
- 19 EXAMINER: Do you want to take a --.
- 20 MR. DONOHUE: Okay. So, as the Chair says, this
- 21 is a letter in the record, a letter of opposition.
- 22 EXAMINER: Expressions of concerns although at the
- 23 very end, he does say that he is opposed to it but I didn't
- 24 know if you could, if you had a response to probably --
- MR. DONOHUE: For example number 2?

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1 EXAMINER: -- to 2, 3, 4. Yeah. I mean, just so
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- 2 that the record reads if he's able to answer or provide --
- 3 MR. JEWS: Okay.
- 4 EXAMINER: -- explanatory information.
- 5 MR. JEWS: Well, number 2. I'll just read it. It
- 6 says I am concerned that the proximity and the strength of
- 7 the radio signals may cause interference with my wireless
- 8 network and cell phone, not T-Mobile. First, the FCC has
- 9 given us a license where we are on our own band where we
- 10 will not interfere with any other carrier and/or public
- 11 safety systems in, in, in this area. So, that, that will
- 12 not --
- 13 EXAMINER: That answers that question.
- 14 MR. JEWS: -- that will not be an issue.
- MR. DONOHUE: Okay. Madam Chair, item number 3
- 16 says I'm concerned that radiation from the tower would
- 17 affect the household within the vicinity.
- 18 EXAMINER: I'm not sure that, yeah.
- 19 MR. DONOHUE: We're not going to address federal
- 20 law. It preempts your consideration --
- 21 EXAMINER: Well, just if we just put it on the
- 22 record is all I'm saying. It's, I note this.
- 23 MR. DONOHUE: Okay. All right. So, let me ask
- 24 him this way. Curtis, is the, it's been asserted that there
- 25 are RF admissions issues that would attend to this site. Do

- 1 you have an opinion on that? Do you have a reaction to
- 2 that? The statement that there would be a health concern,
- 3 if you will.
- 4 MR. JEWS: Well, no. I, I do not believe that
- 5 this will be any, there will not be any health issues that
- 6 anyone needs to concern themselves with. Also, of course,
- 7 speaking too, within the Telecommunications Act of 1996,
- 8 addresses that.
- 9 MR. DONOHUE: Let me ask you this way. Is it your
- 10 testimony that this site will be in compliance with
- 11 applicable federal law?
- MR. JEWS: It will be in compliance.
- MR. DONOHUE: All right.
- MR. JEWS: It will be in compliance.
- MR. DONOHUE: And are you aware that T-Mobile
- 16 prepared or had prepared a RF admissions report?
- 17 MR. JEWS: That's correct.
- MR. DONOHUE: All right.
- 19 EXAMINER: All right. Okay. That's, I just put
- 20 it on the record. And, of course, number 4, we have the
- 21 regulation that deals with that, and that's part of the, one
- 22 of the criterias that --
- MR. DONOHUE: Yes.
- 24 EXAMINER: If it's abandoned, 112 --
- MR. DONOHUE: Yes.

- 1 EXAMINER: -- they'll take it down.
- 2 MR. DONOHUE: And he may have an opinion on the
- 3 merger but we're not going to ask him about that.
- 4 EXAMINER: Oh. Yeah. Yeah. No. I don't think
- 5 that's part of the criteria.
- 6 MR. DONOHUE: But this is, maybe this, this is a
- 7 blend. As I mentioned to the Chair earlier, there's a,
- 8 there's a blend of disciplines here. There's site
- 9 acquisition, leasing, zoning, et cetera, and RF engineering.
- 10 MR. JEWS: Yeah.
- 11 MR. DONOHUE: And I asked the site
- 12 acquisition/zoning witness a question about co-location.
- MR. JEWS: Uh-huh.
- MR. DONOHUE: So, would you agree with what he
- 15 said in terms of the co-location opportunities at the
- 16 proposed facility?
- 17 MR. JEWS: Yes. I would.
- MR. DONOHUE: All right. And is there space
- 19 within the structure for additional antennas?
- 20 MR. JEWS: Yes. There is space within the
- 21 structure for additional carriers.
- 22 MR. DONOHUE: And is there space on the ground for
- 23 additional ground equipment for, for example, a second or
- 24 third carrier?
- MR. JEWS: Yes.

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1 MR. DONOHUE: All right. Okay. Thank you.
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- 2 EXAMINER: Thank you very much.
- 3 MR. JEWS: No problem.
- 4 EXAMINER: Okay. How many more? You had --
- 5 MR. DONOHUE: I have the civil engineer to go.
- 6 EXAMINER: Okay.
- 7 MR. DONOHUE: And he's --
- 8 MR. SHABSHAB: I'm not here.
- 9 MR. DONOHUE: He's fairly brief. I think or we
- 10 can or we can take B-.
- 11 EXAMINER: Famous last words. I just wanted to
- 12 take like a five minute break.
- MR. DONOHUE: Yeah. Yes.
- 14 EXAMINER: For everybody can stretch their legs,
- 15 get some water.
- MR. DONOHUE: Right.
- 17 EXAMINER: Use the restroom. So, it's 20 after.
- 18 I know you're ready to go but if you can hold on for another
- 19 five, six more minutes.
- MR. SHABSHAB: Sure.
- 21 EXAMINER: I'll be right back. Okay.
- MR. DONOHUE: Thank you.
- EXAMINER: So, we'll go off the record, 11:20, for
- 24 a moment.
- 25 (OFF THE RECORD)

- 1 (ON THE RECORD)
- 2 EXAMINER: Okay. So, we can go back on the
- 3 record. Which means, everybody, we have to, if you want to
- 4 talk you can take it outside. Otherwise, we're going to go
- 5 forward. Just, it's clarification with regards to my
- 6 earlier request that the TFC, I was referring to Exhibit 7,
- 7 asking for the supporting documentation for the revised
- 8 Tower coordinator recommendation for 2011 as I have the one
- 9 for 2008, and you were going to see if there is another one.
- 10 MR. DONOHUE: If there's a similar report.
- 11 EXAMINER: Right. Because right now, you're
- 12 relying on the minutes --
- 13 MR. DONOHUE: Correct.
- 14 EXAMINER: -- which say he, you said things
- 15 haven't changed but with regards to the need, I don't know
- 16 that 2008 specifically says that there is a need.
- MR. DONOHUE: What we'll do, Madam Chair, is
- 18 we'll, the record's going to be open for 15 days following
- 19 today. We're going to give you --
- 20 EXAMINER: A total of 20 days.
- MR. DONOHUE: A total of 20 days.
- 22 EXAMINER: Yes.
- 23 MR. DONOHUE: What we're going to do is we're
- 24 going to give you a letter that says there is a Tower
- 25 Committee staff recommendation, and it's attached or the

1 staff did not prepare one so you don't have to rely on the

- 2 minutes alone.
- 3 EXAMINER: And that, that will be backed up by
- 4 something from Mr. Hunnicutt?
- 5 MR. DONOHUE: Yes.
- 6 EXAMINER: Okay.
- 7 MR. DONOHUE: Yes.
- 8 EXAMINER: One way or another just, if that
- 9 document is missing, I need it. Otherwise, you'll provide -
- 10 -
- MR. DONOHUE: We'll address it.
- 12 EXAMINER: You'll address it. Okay. Thanks.
- MR. DONOHUE: We know what we mean. I don't know
- 14 whether that all got picked up on the tape but --
- 15 EXAMINER: Yeah.
- MR. DONOHUE: We'll do it. All right.
- 17 EXAMINER: Yes. Just so long as, you know what
- 18 I'm asking for, and I think you do, and you will provide the
- 19 necessary support that I need. Okay.
- MR. DONOHUE: Understood.
- 21 EXAMINER: So, thank you for your patience. I'll
- 22 need you to raise your right hand. Do you, well, go ahead
- 23 and step in. Do you swear or affirm under the penalty of
- 24 perjury that the testimony you are about to give is the
- 25 truth, the whole truth, and nothing but the truth?

- 1 MR. SHABSHAB: I do.
- 2 EXAMINER: Okay. I need you to state your name
- 3 and your address and then wait for Mr. Donohue to ask you
- 4 questions and just keep your voice up so I can hear you.
- 5 MR. SHABSHAB: Sure. My name is Camille Shabshab,
- 6 and my business address is 6600 Rockledge Drive, Suite 550,
- 7 Bethesda, MD 20817.
- 8 EXAMINER: Thank you.
- 9 MR. DONOHUE: Camille, can you give us your
- 10 present employment and your title at your present employer?
- 11 MR. SHABSHAB: Sure. My, my employer is Entrex
- 12 Communication Services. I'm one of the principles of the
- 13 firm. Our business is based, is provide engineering
- 14 services for communications carriers such as T-Mobile,
- 15 helping them design their infrastructure, design cell sites,
- 16 and so on.
- MR. DONOHUE: And how long have you been
- 18 associated with Entrex?
- MR. SHABSHAB: Eleven years.
- 20 MR. DONOHUE: And prior to that, you were involved
- 21 with another civil engineer group. Is that correct?
- 22 MR. SHABSHAB: Correct. I've done cell site
- 23 related work since 1995.
- MR. DONOHUE: And can you give us a brief rundown
- 25 of your educational background?

1 MR. SHABSHAB: Sure. I have a Bachelor's Degree

- 2 in civil engineering, and I have a Master's Degree also in
- 3 civil engineering with structural sub-specialty.
- 4 MR. DONOHUE: And you're a licensed, registered
- 5 professional engineer in the state of Maryland. Is that
- 6 correct?
- 7 MR. SHABSHAB: Yes.
- 8 MR. DONOHUE: All right. And have you been
- 9 qualified as an expert witness in civil engineering in the
- 10 state of Maryland?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: All right. Have you participated in
- 13 similar proceedings such as at court of appeals, hearing
- 14 examiners, et cetera?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: All right. Based on education and
- 17 based on several years experience and based on prior
- 18 qualifications, I think he's --
- 19 EXAMINER: Okay. And so you're offering him as an
- 20 expert in --
- 21 MR. DONOHUE: I am offering him as an expert
- 22 witness in civil engineering.
- 23 EXAMINER: Civil engineering. Okay. I think
- 24 you've established that. You seem qualified. Okay.
- MR. DONOHUE: All right. Camille, what was

1 Entrex's role in the Twin Farms case? What does, what does

- 2 Entrex do for T-Mobile?
- MR. SHABSHAB: As I stated, we're an engineering
- 4 firm. Basically, we prepare all the engineering that's
- 5 required to obtain zoning approval of the permits. We do
- 6 the site surveys. the land survey work. Basically, prepare
- 7 all the plans and all the engineering work that's required
- 8 to design, get approvals and build the facility.
- 9 MR. DONOHUE: All right. So, you prepared the
- 10 plans that were submitted to the Hearing Examiner in
- 11 connection with this case?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: So, you're familiar with things like
- 14 topography, the setbacks, the lot, et cetera?
- MR. SHABSHAB: Yes.
- 16 MR. DONOHUE: All right. You've been to the site.
- 17 Correct?
- 18 MR. SHABSHAB: Yes.
- 19 MR. DONOHUE: How would you characterize the, the
- 20 lot in question, the swim club lot?
- MR. SHABSHAB: Well, the lot as a B- if you don't
- 22 mind, I'll use the plan.
- 23 EXAMINER: It's Okay. Let's, let's just, you're,
- 24 you're looking at a big map --
- MR. SHABSHAB: That's the survey. The second page

- 1 in that second drawing.
- 2 EXAMINER: And I'm just --
- MR. DONOHUE: Yeah. I'm going to give you a
- 4 number here in a minute.
- 5 EXAMINER: It's because it was revised, and I'm
- 6 going to make sure I'm looking at --
- 7 MR. DONOHUE: Yeah. The date of these plans? The
- 8 last revision date?
- 9 MR. SHABSHAB: 8-25-11.
- 10 EXAMINER: And I have that, actually, we have, it
- 11 was originally marked 17C but it wasn't, it went sub marked
- 12 but then you submitted a revised one and it's marked 54A
- 13 through --
- MR. DONOHUE: Correct.
- 15 EXAMINER: Yeah. So, we're --
- MR. DONOHUE: Well, 54 is your electronic
- 17 resubmission, really.
- 18 EXAMINER: Well, this is --
- MR. DONOHUE: That's fine.
- 20 EXAMINER: Okay.
- MR. DONOHUE: Okay.
- 22 EXAMINER: I just want to make sure we're on the
- 23 right one.
- MR. DONOHUE: Understood.
- 25 EXAMINER: I think the original one was 17C. Is

- 1 it 17C? I'm sure we go through --
- MR. DONOHUE: 17C was, was, 17C was the submission
- 3 which included the revised SOJ --
- 4 EXAMINER: Right.
- 5 MR. DONOHUE: -- Tower Committee and revised
- 6 plans. So, I'm sorry. The last revision date on those?
- 7 EXAMINER: So --
- 8 MR. SHABSHAB: 8-25.
- 9 MR. DONOHUE: Thank you.
- 10 EXAMINER: Okay. So, okay. I just want to
- MR. DONOHUE: So, it's the same.
- 12 EXAMINER: Are these already in the record?
- MR. DONOHUE: They are.
- 14 EXAMINER: Okay. I just want to make sure.
- 15 Actually, you can, now that we've clarified that we have the
- 16 electronic which is 54, and we're 17.
- MR. DONOHUE: Right.
- 18 EXAMINER: But, when you're looking at the map, I
- 19 think in the right hand corner, you had Z1, Z.
- 20 MR. DONOHUE: Exactly. I was going to say if you
- 21 can tell us --
- 22 EXAMINER: That's, might be the easiest so that I
- 23 know what, what page you're on.
- MR. DONOHUE: I don't know whether you heard the
- 25 exchange but the, and the block up into the upper right

- 1 corner there, it gives last revision date.
- 2 EXAMINER: Yes.
- 3 MR. DONOHUE: All right. So, that should --
- 4 EXAMINER: I didn't hear the conversation.
- 5 MR. DONOHUE: Okay. So, that should reflect the
- 6 last revision date of 8-25-11. That's the final.
- 7 EXAMINER: The final. Okay.
- 8 MR. DONOHUE: Okay.
- 9 EXAMINER: Okay. Thank you.
- MR. SHABSHAB: Okay. It's a, it's a, as was
- 11 stated before, it's about 3.7 acre property.
- 12 EXAMINER: Uh-huh.
- MR. SHABSHAB: It's roughly rectangular, about 300
- 14 feet wide, about 600 feet deep, bordering Fairland Road on
- 15 the north side. The topography, as you can see from the
- 16 pictures before, basically, when you enter the property, you
- 17 go down a steep slope to a low point where the proposed
- 18 facility and the tennis courts are, and then the grade
- 19 starts rising up again to, towards the back where the
- 20 swimming pool is. The, it's, it's a residential area.
- 21 EXAMINER: Uh-huh.
- 22 MR. SHABSHAB: Most of the surrounding properties
- 23 are half or whole. The surrounding properties are
- 24 residential and vary in size from about 10,000 to about
- 25 15,000 square feet, and that's characteristic of the entire

- 1 neighborhood.
- 2 MR. DONOHUE: Do you have a spiral vision there
- 3 that shows us the ground elevation of the compound?
- 4 MR. SHABSHAB: Sure. It's about 309 feet.
- 5 MR. DONOHUE: Okay. And, and similar elevation at
- 6 Fairland?
- 7 MR. SHABSHAB: Fairland is 410.
- 8 MR. DONOHUE: All right.
- 9 MR. SHABSHAB: So, that's 20 feet down from
- 10 Fairland Road.
- MR. DONOHUE: Okay. And where is the compound,
- 12 where's the proposed compound situated in conjunction with
- 13 the rest of the facilities?
- MR. SHABSHAB: Okay. So, as you enter the
- 15 facility, there's the, the first, I mean there's a parking
- 16 lot obviously. There's the tennis courts, and there's the
- 17 wooded area that borders Fairland Road. So, we basically
- 18 designed a, it's kind of a triangle or an L-shaped side that
- 19 would fit between the tennis courts and the woods that are
- 20 immediately to the north of Fairland Road. So, it's kind
- 21 of, I mean that's not very typical. Typically, we would
- 22 design a square compound. I mean, this one, we're trying to
- 23 maximize or make use of the existing vegetation with the
- 24 fringe on the tennis court plus we are providing landscaping
- 25 between the proposed compound and the tennis court.

- 1 MR. DONOHUE: All right. While we're on
- 2 landscape, maybe you want to go on your landscape plan.
- 3 Let's talk about the proposed ground improvements.
- 4 MR. SHABSHAB: I mean, everything above.
- 5 MR. DONOHUE: Okay. What are we looking at?
- 6 MR. SHABSHAB: Oh. This is, let's just
- 7 (indiscernible).
- 8 MR. DONOHUE: All right. What's proposed for, for
- 9 landscaping around the compound?
- 10 MR. SHABSHAB: So, basically, I was saying, I
- 11 mean, there's the existing vegetation on this south side,
- 12 and we are providing vegetation on all the other sides.
- MR. DONOHUE: Uh-huh.
- MR. SHABSHAB: Of the north, east, and west. So,
- 15 basically, the whole, the entire proposed compound would be
- 16 surrounded by landscaping. Obviously, except where the gate
- 17 is coming into the compound.
- 18 MR. DONOHUE: And what about the fencing in the
- 19 compound?
- MR. SHABSHAB: The fencing of the compound would
- 21 be eight foot high wood board on board fence which is the
- 22 defined as opaque. Basically, you can't see in.
- MR. DONOHUE: Okay. And the landscaping. What's
- 24 proposed for --
- MR. SHABSHAB: Evergreens.

- 1 MR. DONOHUE: Okay.
- 2 MR. SHABSHAB: Evergreens so that it, it'll shield
- 3 the compound and hide it from view.
- 4 MR. DONOHUE: All right. What's the means of
- 5 ingress and egress to the compound?
- 6 MR. SHABSHAB: The compound has, I mean, we're not
- 7 providing an access road into the compound.
- MR. DONOHUE: Uh-huh.
- 9 MR. SHABSHAB: It's going to be a temporary
- 10 construction, and so the compound can actually be built but
- 11 technicians accessing the compound which is, for example, no
- 12 more than once a month once it's built, would basically
- 13 just, you now, park in the parking lot and just walk over,
- 14 and the compound's about 20 feet removed from the parking
- 15 lot, you know, so there's about 20 feet between the parking
- 16 lot and the compound.
- 17 EXAMINER: Okay. So, they would have to go into
- 18 the parking lot and not, there's not going to be it's own
- 19 separate --
- MR. SHABSHAB: No.
- 21 EXAMINER: -- access road?
- MR. SHABSHAB: I mean you access through the
- 23 existing entrance, park in the existing parking space and
- 24 just walk over to the compound.
- MR. DONOHUE: Okay. And you heard the testimony

1 earlier about the design of the support structure. Correct?

- 2 MR. SHABSHAB: Uh-huh.
- MR. DONOHUE: And, and what is that in, in your
- 4 words?
- 5 MR. SHABSHAB: I'm not sure what to say --
- 6 MR. DONOHUE: The pole. What's the, yeah.
- 7 MR. SHABSHAB: Oh. Yeah. Okay. Well, I mean
- 8 typically again, a regular cell site would have a pole with
- 9 a platform, and I mean, I know that because I asked what the
- 10 dimension, I think, of the platform. Typically, it's about
- 11 13 feet wide. This one befalls the backbone. It's designed
- 12 to be a minimum size just to be able to fit the antennas.
- 13 Typically, T-Mobile and all the other carriers would like to
- 14 have six or nine antennas on the south side, and this one,
- 15 just to make the aesthetics work, basically, but I mean to
- 16 use all the antennas so we can fit the antennas within the
- 17 pattern of the platform which is roughly, you know, 27 to 30
- 18 inches in diameter.
- MR. DONOHUE: At what elevation?
- 20 MR. SHABSHAB: At elevation 125 feet.
- MR. DONOHUE: Okay.
- 22 MR. SHABSHAB: Now, the pole itself would tape
- 23 down just because, obviously, you know, being 30 inches it's
- 24 not going to be strong enough. It tapers down slightly so
- 25 the base, I mean, the pole has not been designed yet.

- 1 MR. DONOHUE: Uh-huh.
- 2 MR. SHABSHAB: But, the typical pole dimension for
- 3 this height might taper down like from two and a half feet
- 4 to maybe four feet at the base, at most.
- 5 MR. DONOHUE: All right. Based on civil
- 6 engineering. Based on some sort of analysis.
- 7 MR. SHABSHAB: On some of the, some are similar,
- 8 right. Right.
- 9 MR. DONOHUE: And the, as explained by two
- 10 witnesses, the compound is built; you gave it an L
- 11 description?
- MR. SHABSHAB: Right. So, the compound is then to
- 13 contain what T-Mobile is proposing, the 10 x 20 steel
- 14 platform that's suppose to include cabinets. It's suppose
- 15 to be foundation for the pole itself and the telephone and
- 16 utility service points, let's call them, and then two future
- 17 carriers. All that is within the, the area of the compound
- 18 is 1900 square feet. So, all that would fit within the
- 19 compound.
- MR. DONOHUE: Okay.
- MR. SHABSHAB: And the compound --
- 22 MR. DONOHUE: Right. I was going to ask you about
- 23 the impervious service but if you want to --
- MR. SHABSHAB: Right. That's what I was going --
- MR. DONOHUE: Yeah. All right. So, there were

1 change made to reflect the calculations on impervious

- 2 service. Correct?
- 3 MR. SHABSHAB: Correct.
- 4 MR. DONOHUE: And Entrex was involved in those.
- 5 Right?
- 6 MR. SHABSHAB: Yes.
- 7 MR. DONOHUE: All right. Would you tell us what
- 8 that was about?
- 9 MR. SHABSHAB: Sure. The typical compound would
- 10 have the equipment sitting, basically, on the ground. So,
- 11 we'd pour concrete pads. Actually, T-Mobile's done about
- 12 20, and the equipment just sits there. Because of the
- 13 consideration of this being in a, in a, I think it's the
- 14 Paint Branch --
- MR. DONOHUE: Uh-huh.
- 16 MR. SHABSHAB: -- watershed, we were really not
- 17 allowed to increase the impermeable element at the top of
- 18 the site. So, no matter what you do, I mean, obviously
- 19 we're still, we're elevating the equipment off the ground,
- 20 two feet off the ground and putting it on steel grating.
- 21 So, any water can go through. But, there's a certain
- 22 minimum that you still have to pour some concrete to support
- 23 the equipment, to support the pole foundation. So, to
- 24 compensate for that, we're taking, there's a concrete area
- 25 that is immediately to the west of the tennis courts that

1 we're actually removing as part of this proposal. So, and

- 2 in fact, the area of concrete that we'll be removing is
- 3 about twice the area of concrete that we're adding. So,
- 4 there is not decrease in the amount of permeable area.
- 5 That's just south of the this one.
- 6 EXAMINER: Is that the, what? 570?
- 7 MR. SHABSHAB: Yeah.
- 8 EXAMINER: Because the, the concrete that this
- 9 would be using is what? Like 135?
- 10 MR. SHABSHAB: Exactly. And when they're moving,
- 11 570. So, there's like, you know. So, for 400 square feet
- 12 of net decrease in permeable.
- 13 EXAMINER: And see these concretes are just
- 14 the --
- MR. SHABSHAB: Yeah. The concrete is going to be
- 16 every --
- 17 EXAMINER: What do they call the --
- MR. SHABSHAB: -- equipment pad. So, there's
- 19 going to have four piers to support the --
- 20 EXAMINER: Piers. Okay.
- 21 MR. SHABSHAB: Right. And then plus the pier
- 22 foundation for the tower itself. So, all of that adds up to
- 23 about 135 square feet.
- 24 EXAMINER: But there's no flat top or concrete
- 25 pad, per se --

- 1 MR. SHABSHAB: No. No.
- 2 EXAMINER: -- that's raised.
- 3 MR. SHABSHAB: Yeah. That's gravel.
- 4 EXAMINER: Okay.
- 5 MR. SHABSHAB: That's gravel and then the, I mean,
- 6 we're taking special measures because typically again on a
- 7 compound, you pour concrete for the pads and then you have
- 8 gravel in the rest of the compound.
- 9 EXAMINER: Uh-huh.
- MR. SHABSHAB: But, you compact the earth below
- 11 the gravel. You put the filter fabric and all that so that
- 12 the weeds, you know, don't over grow it, and this one, as a
- 13 condition of the approval, we had to basically make sure
- 14 that the dirt is not compacted.
- 15 EXAMINER: Uh-huh.
- 16 MR. SHABSHAB: We, we omit the filter fabric and
- 17 all that so that the rest of the compound area stays
- 18 permeable.
- 19 EXAMINER: Okay.
- 20 MR. DONOHUE: And this, these improvements that
- 21 you're describing, they were reviewed by the county. Is
- 22 that correct?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: And you were involved in those
- 25 proceedings and those conversations. Correct?

- 1 MR. SHABSHAB: Right.
- 2 MR. DONOHUE: Do you know, do you know who
- 3 reviewed it?
- 4 MR. SHABSHAB: I think Alton. Oh. You mean which
- 5 agency?
- 6 MR. DONOHUE: For the, for the improvements that
- 7 you're describing here, were they reviewed by, for example,
- 8 planning board?
- 9 MR. SHABSHAB: Yes.
- MR. DONOHUE: Okay. And are they approved?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: Okay. All right. So, you were
- 13 explaining the topography and the tree cover on the lot
- 14 earlier, and I think I probably interrupted you but how
- 15 would you characterize the existing tree cover?
- MR. SHABSHAB: Well, and as you can see, I mean,
- 17 the tree, it, it basically has tree cover on all sides of
- 18 the property. I mean, basically, if you're standing within
- 19 the property anywhere, all you're going to see is the trees.
- 20 So, I mean, this is as well a cover, let's call it, the
- 21 complex side that's, I mean, I've seen in many years.
- 22 MR. DONOHUE: What's the height of those tree if
- 23 you know?
- MR. SHABSHAB: Trees are roughly, I'm not 100
- 25 percent sure, but normal at about 80 feet. 70 feet.

1 MR. DONOHUE: All right. Based on site visits--

- 2 MR. SHABSHAB: Yes.
- 3 MR. DONOHUE: -- you're approximate?
- 4 MR. SHABSHAB: Yes.
- 5 MR. DONOHUE: Okay. So, are they mature trees?
- 6 MR. SHABSHAB: Yes.
- 7 MR. DONOHUE: Okay. And the, the other facilities
- 8 at the swim club as we, for example, as we go north from the
- 9 compound, would you characterize the other uses that are
- 10 shown there?
- MR. SHABSHAB: Sure. So, immediately to the north
- 12 of the proposed compound is the tennis courts and there's a
- 13 basketball, it's not a full court, but there's an open
- 14 playing area. There's an area that's used for picnics and
- 15 social functions by the, by the club members, and then
- 16 there's the pool area with associated structures, you know,
- 17 like the bath house and things like that.
- MR. DONOHUE: All right.
- 19 MR. SHABSHAB: And there's a parking lot that's
- 20 all to the west side.
- MR. DONOHUE: Correct. Okay. The, so the site,
- 22 you said, the site is approximately 3.7 acres. Were there
- 23 other sites on the property that were considered for the
- 24 compound?
- MR. SHABSHAB: Not really because this is, I mean,

1 we thought and we and everybody involved with the project

- 2 thought that this would be the best area to actually
- 3 accomplish all the coverage objectives, accomplish all the
- 4 objectives of the property meaning that it's less, the least
- 5 visible spot on the property and it's the least destructive
- 6 to the, to the owners. I mean, it's not really ideal as far
- 7 as location because of height. I mean, we're putting the
- 8 pole in the lower point of the property. So, ideally, we'd
- 9 like to go, be on the highest point. But, --
- MR. DONOHUE: Well, let's get back to visibility.
- 11 What, what makes it the least visible? This particular
- 12 location, what makes it the least visible location?
- MR. SHABSHAB: Well, it's all the trees around it.
- MR. DONOHUE: Right. Okay.
- MR. SHABSHAB: I mean, it's immediately, it's
- 16 lodged between the tennis courts and that tree stand, and
- 17 it's closer to, to Fairland Road. So, if you're really
- 18 looking, if your standing on Fairland Road, then you have 70
- 19 foot trees. I mean, your land of site obviously is going up
- 20 above the tree tops. So, you can't quite see the pole, and
- 21 that's why the photos that were presented earlier, you
- 22 can't, I mean, they didn't take any pictures standing on
- 23 Fairland Road because all you see is 80 foot trees there.
- MR. DONOHUE: All right. The, well, let's ask,
- 25 maybe you want to sit down. Are you familiar with the

1 setback requirements for such structures in Montgomery

- 2 County?
- 3 MR. SHABSHAB: Yeah. There should be a one to one
- 4 setback from the property lines and 300 feet from the
- 5 adjacent residences.
- 6 MR. DONOHUE: Okay. Subject to production?
- 7 MR. SHABSHAB: Production. right.
- 8 MR. DONOHUE: Okay. So, all right. So, does the
- 9 site meet the one to one setback requirement?
- 10 MR. SHABSHAB: It meets it on three sides but not
- 11 from the Fairland Road. It's slightly less than one to one.
- MR. DONOHUE: Okay.
- MR. SHABSHAB: It's 109 as opposed to 125.
- 14 MR. DONOHUE: Could it meet the one to one setback
- 15 given the other facilities on the property?
- MR. SHABSHAB: No.
- MR. DONOHUE: All right. Is there a place on the
- 18 property where you could meet the one to one setback
- 19 requirement?
- 20 MR. SHABSHAB: Not that, not that's acceptable to
- 21 all the parties.
- 22 MR. DONOHUE: Okay. Let's talk about the 300 foot
- 23 setback. Three hundred feet from what?
- 24 MR. SHABSHAB: Residences. The actual heart
- 25 residences.

- 1 MR. DONOHUE: From the, from the --
- 2 MR. SHABSHAB: From the center of the tower to the
- 3 closest point on any adjacent residence.
- 4 MR. DONOHUE: All right. And is there a spot on
- 5 this property where we could meet, where the applicant could
- 6 meet that 300 foot setback requirement?
- 7 MR. SHABSHAB: No.
- 8 MR. DONOHUE: All right. So, you have, for
- 9 example, you have properties there east and west of the
- 10 proposed compound. Right?
- 11 MR. SHABSHAB: Right.
- MR. DONOHUE: And the applicant has asked the
- 13 Board to reduce those setback requirements.
- MR. SHABSHAB: Correct.
- MR. DONOHUE: And in support of that request, we
- 16 gave the tree cover.
- MR. SHABSHAB: Yeah.
- 18 MR. DONOHUE: And I think you said it was the most
- 19 heavily tree covered site you'd seen. But, given the, the
- 20 question about, I'm just talking about east and west now,
- 21 given the proximity of the homes east and west, how would
- 22 you characterize the screening as it relates to visibility
- 23 from those homes east and west?
- MR. SHABSHAB: I mean, as I said before, there's
- 25 trees on both sides of the property. So, I mean, if, if

- 1 you're sitting out, I mean, as was mentioned before, we
- 2 don't go onto these people's properties but, I mean, if
- 3 you're looking through tree trunks, you might see a fence or
- 4 you might see the landscaping that we're adding but
- 5 practically speaking, there is no line of site on those
- 6 properties to the pole because, again, these houses, I mean,
- 7 they're looking right at the trees from their back yards.
- 8 So, there is no visibility.
- 9 MR. DONOHUE: The one to one setback requirement.
- 10 Correct? Is also from base of pole to property line.
- 11 Correct?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: All right. So, the one to one
- 14 setback is, well, what's the basis for the one to one
- 15 setback, if you know?
- 16 MR. SHABSHAB: Originally, the, the basis was if
- 17 the tower ever falls over, you know, if, if it's 125 feet,
- 18 the top of the tower will stay within the property.
- 19 MR. DONOHUE: Okay.
- 20 EXAMINER: Stay within the property?
- MR. SHABSHAB: Yeah.
- 22 MR. DONOHUE: All right. Are you aware, in
- 23 connection with this application, are you aware that a
- 24 engineer letter was submitted to, to address the question of
- 25 fall zones?

- 1 MR. SHABSHAB: Yeah.
- 2 MR. DONOHUE: Okay. And does the letter address
- 3 that question of the, of the fall area, if you will?
- 4 MR. SHABSHAB: Yeah.
- 5 EXAMINER: What letter are we talking about?
- 6 MR. DONOHUE: Sorry.
- 7 EXAMINER: Is it his letter or is it just a letter
- 8 that he used for, what, what --
- 9 MR. DONOHUE: It's a letter that he's reviewed.
- 10 EXAMINER: Okay.
- 11 MR. DONOHUE: All right.
- 12 EXAMINER: All right.
- MR. SHABSHAB: The one to one falls on a silly
- 14 misconception, engineering wise it's not that. I mean, most
- 15 of these towers are designed to kind of fall on themselves
- 16 if they fail.
- 17 EXAMINER: Okay. So, let me find the letter, and
- 18 we can --
- 19 MR. DONOHUE: All right. Let's, let's, actually
- 20 let's move on. Let's talk about the 300 foot setback
- 21 requirement.
- 22 EXAMINER: Well, the, so, you're not going to have
- 23 him testify to me --
- MR. DONOHUE: It's not his letter.
- 25 EXAMINER: Okay. But he, does he have an opinion

- 1 as to, I think he used the purpose of the one to one.
- 2 MR. DONOHUE: Right. Which, correct. All right.
- 3 So, in your opinion as a licensed PE, does the, is the one
- 4 to one setback requirement a hard and fast rule --
- 5 MR. SHABSHAB: No.
- 6 MR. DONOHUE: -- given the, given the structure?
- 7 MR. SHABSHAB: No.
- MR. DONOHUE: Why is that?
- 9 MR. SHABSHAB: Because as I was saying and when
- 10 these things fail, typically, they don't just snap from the
- 11 base and go down like a tree.
- 12 EXAMINER: Uh-huh.
- MR. SHABSHAB: They fail. They're designed to
- 14 have a weak point that they fail at and typically on a mall
- 15 pole, it's about midpoint of the eye. So, if it does fail,
- 16 it's just going to like fold in half, basically. It never
- 17 really goes like straight down. So --
- 18 EXAMINER: Okay. And why is that, though? I mean
- 19 why would it --
- 20 MR. SHABSHAB: Because that, that's by design.
- 21 EXAMINER: Oh. That's be design.
- 22 MR. SHABSHAB: It's designed to be, to have the
- 23 weakest point at the middle, basically.
- MR. DONOHUE: Well, let's put it this way. It's
- 25 designed not to fail. Correct?

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1 MR. SHABSHAB: It's designed not to fail. But,
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- 2 you get, you know --
- 3 MR. DONOHUE: In the event --
- 4 MR. SHABSHAB: In the event it does --
- 5 MR. DONOHUE: -- in a catastrophic event --
- 6 MR. SHABSHAB: Right.
- 7 MR. DONOHUE: -- and there is failure --
- 8 MR. SHABSHAB: Right.
- 9 MR. DONOHUE: It's less than the one to one. Is
- 10 that correct?
- MR. SHABSHAB: Yes.
- MR. DONOHUE: Okay. Let's get to the 300 foot
- 13 setback requirement. The 300 foot setback requirement from
- 14 offside dwelling is based on what consideration? If the one
- 15 to one setback is based on a fall zone or a conception of
- 16 all zone, what's the 300 foot setback requirement?
- 17 MR. SHABSHAB: It's basic, just to provide, I'm
- 18 not sure.
- 19 MR. DONOHUE: If I told you it was aesthetic,
- 20 would that --
- MR. SHABSHAB: Yes.
- MR. DONOHUE: Okay.
- MR. SHABSHAB: That makes, that makes sense.
- MR. DONOHUE: If the, if the Board is asked to
- 25 consider the aesthetics of reducing a setback requirement,

- 1 what would you, what would you be looking for for
- 2 extenuating circumstances? What would you want to see to
- 3 support that request for reduction?
- 4 MR. SHABSHAB: Obviously visibility. I mean, if
- 5 it's 200 feet and if it's less than the requirement, and you
- 6 still can't see it, then I think it's, it's a reasonable
- 7 request.
- 8 MR. DONOHUE: Okay. So, in, in support of this
- 9 request, we've said that the tree cover on the lot is, is a
- 10 significant screen?
- 11 MR. SHABSHAB: Exactly.
- MR. DONOHUE: I've asked two of the previous
- 13 witnesses about the design. We talked about the stealth
- 14 design. Is that a mitigating or attenuating, is that a
- 15 circumstance to --
- MR. SHABSHAB: Yes.
- 17 MR. DONOHUE: All right.
- 18 MR. SHABSHAB: Yes.
- 19 MR. DONOHUE: All right. Are there additional
- 20 improvements? We talked about the ground equipment. Are
- 21 there additional improvements that would also mitigate the
- 22 visual impact? You talk about the evergreens.
- MR. SHABSHAB: Right.
- MR. DONOHUE: Right.
- MR. SHABSHAB: The landscaping. I mean, there's

1 the board on board fence which makes it opaque. There's the

- 2 evergreens to hide the fence, and then there's the existing
- 3 tree cover.
- 4 MR. DONOHUE: Okay.
- 5 MR. SHABSHAB: And the fact that it's flag pole.
- 6 No, no, no visible antennas. No platforms. And that could
- 7 be painted to whatever color seems agreeable.
- 8 MR. DONOHUE: Okay. From a civil engineering
- 9 standpoint, are there additional things you would want to
- 10 see as, as either ground improvements or design
- 11 improvements?
- MR. SHABSHAB: No. I think we've done pretty much
- 13 everything that can be done.
- MR. DONOHUE: Okay. All right. Thank you,
- 15 Camille.
- 16 EXAMINER: I have some follow-up questions. Going
- 17 back to the location. Did I hear you correctly? You said
- 18 that this was the only location you considered?
- 19 MR. SHABSHAB: Well, I mean, we obviously go and
- 20 look and see what, what makes sense.
- 21 EXAMINER: Uh-huh.
- 22 MR. SHABSHAB: But, I mean, design, I mean the
- 23 plans always showed this location, and that's what I meant
- 24 by--
- 25 EXAMINER: Right. I understand that.

- 1 MR. SHABSHAB: Yeah.
- 2 EXAMINER: But, in terms of, I guess it would go
- 3 to the setbacks.
- 4 MR. SHABSHAB: Uh-huh.
- 5 EXAMINER: If there's some other place that would
- 6 even be less visible on the property. I thought I heard you
- 7 say that you didn't really consider any other place because
- 8 of the property owners, they didn't want it anywhere else?
- 9 MR. SHABSHAB: No. I met an --
- 10 EXAMINER: Is that what, is it, okay.
- 11 MR. DONOHUE: I don't think that's what he said.
- 12 EXAMINER: That's why I'm asking.
- MR. SHABSHAB: I did say that. I did say that.
- 14 EXAMINER: Okay.
- MR. SHABSHAB: But, I mean, I think what Ed
- 16 alluded to is that the, the residential properties on both
- 17 sides --
- 18 EXAMINER: Uh-huh.
- 19 MR. SHABSHAB: -- are about the same, I mean, the
- 20 property does not get any wider. Let's say the property got
- 21 wider.
- 22 EXAMINER: Right.
- MR. SHABSHAB: We might find a location where we
- 24 meet the setbacks. But, the property is pretty much a
- 25 constant width.

- 1 EXAMINER: Right.
- 2 MR. SHABSHAB: And the residences on both sides
- 3 are about the same. So, even if we consider putting it,
- 4 let's say, you know, up here.
- 5 MR. DONOHUE: Right.
- 6 MR. SHABSHAB: I mean, we'd still have the same
- 7 setback issues.
- 8 EXAMINER: You'd still have the same setback
- 9 issues --
- MR. SHABSHAB: From the houses.
- 11 EXAMINER: -- a lower number of houses would have
- 12 a setback issue.
- MR. SHABSHAB: No. I mean this plan doesn't show
- 14 the houses in the back here because they're outside the --
- 15 EXAMINER: Oh. Okay.
- 16 MR. SHABSHAB: They're outside the 300 foot
- 17 requirement. But there are other houses in the back.
- 18 EXAMINER: Just for instances, between is it the,
- 19 the bath house and the, is it the basketball court?
- MR. SHABSHAB: Yeah.
- 21 EXAMINER: That area. Is that higher?
- 22 MR. SHABSHAB: I mean that's the area that the
- 23 club uses. They didn't want the pole there.
- MR. DONOHUE: Well, let's ask it this way. We,
- 25 the area that the Chair is asking about is central to the

- 1 parcel. Right?
- 2 MR. SHABSHAB: Yeah.
- 3 MR. DONOHUE: In your opinion, would that meet the
- 4 setback requirements either one to one or the 300 foot off
- 5 sight dwelling?
- 6 MR. SHABSHAB: It wouldn't meet the one to one
- 7 because obviously, we're further away from the road.
- 8 MR. DONOHUE: What about the 300 feet?
- 9 MR. SHABSHAB: It would not, it would not meet the
- 10 300 feet. I mean, you can see. I mean, I'm sorry. Here
- 11 it's like much-- here, this house, this is going to be much
- 12 closer. I mean, it, it alleviates it for certain houses but
- 13 then we're going to have just the same issue with other
- 14 houses.
- 15 EXAMINER: Well, as it just goes to mitigation as
- 16 to whether you go from eight setback request waivers to
- 17 four. I mean, I don't know if it would increase. You made
- 18 a point in terms of the properties behind the pool might be
- 19 accepted at that point.
- 20 MR. SHABSHAB: I'm not sure what the number would
- 21 be.
- 22 MR. DONOHUE: All right. How about this. Can I
- 23 interrupt you?
- 24 EXAMINER: Oh. Sure.
- MR. DONOHUE: We had asked the Chair, and we have

- 1 accepted that. That's the aerial photo and then some
- 2 additional photographs take by Mr. Hagler, and that's
- 3 Exhibit 74. A is the top one. I'm just going through the
- 4 aerial photograph there.
- 5 MR. SHABSHAB: Uh-huh.
- 6 MR. DONOHUE: How would you characterize the, the
- 7 parcel in the area that we're talking about here? Roughly,
- 8 the center of the parcel, north of the basketball court and
- 9 south of the bath house, it looks like.
- 10 MR. SHABSHAB: I'm not sure I --
- 11 MR. DONOHUE: How would you characterize the
- 12 ground cover in that area that we're talking about there?
- MR. SHABSHAB: I mean it's obviously open in that
- 14 area but the ground cover is the same. I mean, it's
- 15 basically trees all around.
- 16 MR. DONOHUE: All right. Compare that ground
- 17 cover. Compare that tree cover in that area with the area
- 18 that we've proposed for the compound.
- MR. SHABSHAB: You know, I think if we moved it
- 20 up, it's going to be more visible because there's no
- 21 immediate trees right next to the proposed pole. Whereas
- 22 the proposed location, we're abutting the trees. So, it's
- 23 going to provide significantly more screening.
- MR. DONOHUE: And where you're --
- MR. SHABSHAB: Especially from the road.

- 1 MR. DONOHUE: Right. Where your hand is there
- 2 where you're, you're reflecting the tree cover between the
- 3 compound and Fairland Road.
- 4 MR. SHABSHAB: Right. I was just standing at the
- 5 entrance and, I mean, you could definitely see the foliage
- 6 that's over here.
- 7 EXAMINER: Uh-huh.
- 8 MR. SHABSHAB: Where as over here, it's too close
- 9 plus you have all the trees.
- 10 MR. DONOHUE: Okay. Is there a, is there a
- 11 similar perimeter tree cover in the central part of the lot?
- MR. SHABSHAB: No.
- MR. DONOHUE: How, how would you describe it in
- 14 through there? How would you describe the perimeter tree
- 15 cover in this area up in here north of Bethesda? MR.
- 16 SHABSHAB: Okay. I mean, it's open, it's an open area. The
- 17 tree cover is around the perimeter of the property. Nothing
- 18 will be real close to the tower and the open area will just
- 19 make this more visible.
- MR. DONOHUE: Thank you.
- 21 EXAMINER: Where you described the height of the
- 22 trees from the surrounding properties, it's, I thought I
- 23 heard you say that --
- MR. SHABSHAB: Uh-huh.
- 25 EXAMINER: -- because --

- 1 MR. SHABSHAB: The line of sight.
- 2 EXAMINER: -- the line of sight as opposed to
- 3 really, we're talking about, I think, the top half of the
- 4 flag pole or --
- 5 MR. SHABSHAB: Right.
- 6 EXAMINER: -- whatever, the cell tower. From
- 7 those people. Were you saying that you couldn't see it from
- 8 people's property because of the vegetation or you could
- 9 only see a little bit of it?
- 10 MR. SHABSHAB: No. I believe you can't see it at
- 11 all from certain --
- 12 EXAMINER: And what about in the winter time?
- 13 These are the trees that drop their leaves. Right?
- MR. SHABSHAB: Right.
- 15 EXAMINER: And does that make a difference?
- 16 MR. SHABSHAB: Makes maybe a little bit of a
- 17 difference. I mean, you might see it but, I mean, would
- 18 something like this where it's, all you're going to see is a
- 19 pole. I mean, it's going to look like a tree trunk. And,
- 20 again, I mean, I can't give you 100 percent answer from
- 21 people's backyards because we can't really go there. But,
- 22 again, if you're sitting here and you have 80 foot trees, I
- 23 mean, you can't really see over the 80 foot trees even in
- 24 the winter time. I mean, sure. It's more visible. It's
- 25 not visible.

- 1 EXAMINER: All right.
- 2 MR. DONOHUE: Can I ask him a follow-up on the
- 3 trees first?
- 4 EXAMINER: Oh. Yeah. Sure. Go ahead.
- 5 MR. DONOHUE: Camille, turn to 74B if you would,
- 6 please? And you see the trees that, that, for example, that
- 7 surround the tennis court on a couple of sides there. I'm
- 8 calling your attention to the, which way I'm looking here,
- 9 to the right side of the basketball hoop.
- 10 EXAMINER: You're on what page?
- MR. DONOHUE: I'm on 74B.
- 12 EXAMINER: Okay.
- MR. DONOHUE: 203. Yeah
- 14 EXAMINER: Okay.
- MR. DONOHUE: The photo says photo 2.
- MR. SHABSHAB: Uh-huh.
- 17 MR. DONOHUE: There's a line of trees there that
- 18 goes north and south, I guess.
- MR. SHABSHAB: Right.
- MR. DONOHUE: Right?
- MR. SHABSHAB: On the right?
- 22 MR. DONOHUE: On the right. What type of trees
- 23 are those?
- MR. SHABSHAB: Those are evergreens.
- MR. DONOHUE: All right. And so looking in the

1 background there, back behind the tennis court. What type

- 2 of trees are back there?
- 3 MR. SHABSHAB: I believe those were mostly
- 4 deciduous trees.
- 5 MR. DONOHUE: Okay. So, is it fair to say it's a
- 6 blend of deciduous and nondeciduous?
- 7 MR. SHABSHAB: Yes. Uh-huh.
- 8 MR. DONOHUE: How about the photos over there? 1A
- 9 and 1B showing trees around or surrounding the balloon fly?
- 10 Is that a similar mix of deciduous/nondeciduous?
- MR. SHABSHAB: Yes. Yeah.
- MR. DONOHUE: Okay.
- 13 EXAMINER: And, and citing that you consider the
- 14 type of trees? Is that --
- MR. SHABSHAB: I mean there's, no. I mean it's
- 16 matter if they are evergreens but what's there is there. I
- 17 mean, the evergreens are mostly between the parking lot and
- 18 the grass area. So, they didn't offer any screening.
- 19 EXAMINER: Did you have any follow-up?
- 20 MR. DONOHUE: I just wanted to ask whether any
- 21 trees are contracted for removal in connection with this?
- MR. SHABSHAB: No.
- 23 MR. DONOHUE: All right. So, we have a landscape
- 24 plan for added evergreen?
- MR. SHABSHAB: Yes.

1 MR. DONOHUE: And no trees to be removed?

- 2 MR. SHABSHAB: Yes.
- 3 MR. DONOHUE: Do you know how many plants are
- 4 being added?
- 5 MR. SHABSHAB: I believe it was either 29 or 39.
- 6 MR. DONOHUE: You're looking at Z3, aren't you?
- 7 MR. SHABSHAB: Yeah. I'm trying to look. I can't
- 8 remember that number.
- 9 MR. DONOHUE: That's fine. We'll leave these with
- 10 you.
- 11 MR. SHABSHAB: I can count them.
- MR. DONOHUE: If I said the note reflects 29,
- 13 would that --
- MR. SHABSHAB: Yeah.
- MR. DONOHUE: Would you support that?
- MR. SHABSHAB: Oh. Yeah.
- 17 EXAMINER: The note?
- 18 MR. SHABSHAB: Yeah. I believe it said somewhere.
- 19 I can't find it now. I remember 29.
- 20 MR. DONOHUE: It's been suggested by your landlord
- 21 that it's 29.
- 22 EXAMINER: I have a question with regards to the
- 23 access. You said it's 20 feet from the parking lot to the
- 24 gate or, estimated.
- MR. SHABSHAB: Yes.

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1 EXAMINER: I'm not holding you to that exact
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- 2 amount but estimated, and is that, in that 20 feet is there
- 3 anything in the way that would prevent in the event of an
- 4 emergency, a vehicle coming closer to the gate?
- 5 MR. SHABSHAB: No.
- 6 EXAMINER: I mean --
- 7 MR. SHABSHAB: I mean, no. I mean it's basically
- 8 right between the paved area for the parking lot it's just
- 9 grass.
- 10 EXAMINER: I see it now. There's a tree next to
- 11 the tennis court but --
- MR. SHABSHAB: Right. There is no emergency
- 13 access requirements in the --
- 14 EXAMINER: No. No. I'm just --
- MR. SHABSHAB: Right.
- 16 EXAMINER: -- just asking for safety. Okay. And
- 17 I thought you had mentioned, or maybe it was somebody else,
- 18 that the pool hasn't been designed yet or it has been
- 19 designed?
- MR. SHABSHAB: No.
- 21 EXAMINER: It hasn't been designed?
- 22 MR. SHABSHAB: I mean, that's the last step
- 23 before, you know, you actually go out and order a pool where
- 24 you're ready to pay for it.
- 25 EXAMINER: Okay. But, in terms of determining the

- l weakest points, all designs are going to have the weakest
- 2 point half way up or, and with regards to the, and I don't
- 3 know if he, maybe he can't answer this in terms of the
- 4 height. I think that was Mr. Jews in terms of is this the
- 5 lowest that it can be, 125.
- 6 MR. DONOHUE: That's really an RF question.
- 7 Right.
- 8 EXAMINER: Yeah. Yeah.
- 9 MR. DONOHUE: That's, that's Mr. Jew's testimony.
- 10 Yeah.
- 11 EXAMINER: Yeah. Uh-huh. And the trees are 70 to
- 12 80 feet tall. Oh. And in terms of the L shape. Were you
- 13 saying that a normal one, this is a little different.
- 14 Normal ones it's square, rectangle --
- MR. SHABSHAB: Yeah. I mean --
- 16 EXAMINER: -- but this is an L shape to address
- 17 the environmental issues as far as visibility or --
- 18 MR. SHABSHAB: To basically make it fit within, I
- 19 mean, we didn't want to remove any trees, obviously.
- 20 EXAMINER: Okay.
- MR. SHABSHAB: So, it's basically to make it fit
- 22 in the area that we thought was best suitable for it.
- 23 EXAMINER: Okay. My questions are, note any
- 24 questions that you'd like to follow-up with?
- MR. DONOHUE: No.

- 1 EXAMINER: Okay. Thank you very much.
- 2 MR. SHABSHAB: Uh-huh.
- 3 MR. DONOHUE: Madam Chair, we have a fourth
- 4 witness that we've identified which submitted his resume,
- 5 Mr. Eric Braun. He's in the audience today. His area of
- 6 expertise is in property valuation. Maybe you've, you've
- 7 heard that testimony before. We've not heard assertions
- 8 about property valuation or devaluation. So, I can
- 9 certainly proffer his testimony or we can submit, for the
- 10 record afterwards, but in the interest of time, I probably
- 11 wouldn't call him at this point. I am aware that there are
- 12 some citizens that have come out and a couple of folks with
- 13 real time constraints and in taking cognizance of that, what
- 14 I'm, what I might do is ask to, to do a closing later and,
- 15 and allow for those folks that need to leave to address the
- 16 Chair before they've got to depart, and they're some swim
- 17 club members. I have a few clean up matters and conclusions
- 18 but I, I don't intend to call the fourth witness.
- 19 EXAMINER: Okay. So, you want to allow them to go
- 20 before and, I mean, with Mr. Braun --
- MR. DONOHUE: With Mr. Braun, we'd, we'd, we won't
- 22 call. We won't call.
- 23 EXAMINER: You're not going to call him?
- MR. DONOHUE: Right.
- 25 EXAMINER: Okay. So, I mean, I'm perfectly fine

- 1 with accommodating citizens. I appreciate that you took
- 2 your time on a work day to come out. So, if you want to do
- 3 that, then we will have them testify.
- 4 MR. DONOHUE: Yes.
- 5 EXAMINER: And then pick up from there.
- 6 MR. DONOHUE: Okay.
- 7 EXAMINER: Okay. Sir. Let's see. My list, I
- 8 have Mr. Hagler.
- 9 MR. HAGLER: Madam Chair, I will let everyone else
- 10 speak because I will answer for you or provide additional
- 11 information. I'm here all day.
- 12 EXAMINER: Okay.
- MR. HAGLER: So, I will be the after lunch part
- 14 but the others on the list have --
- 15 EXAMINER: Who wants to go first? Come on up.
- 16 And you would be?
- 17 MR. LEMBEROS: Nick Lemberos.
- 18 EXAMINER: Nick. Yeah. You can sit there. Let
- 19 me just, all right. Is it Lemberos?
- MR. LEMBEROS: Lemberos.
- 21 EXAMINER: Lemberos. Okay. All right. If you
- 22 could raise your right hand? Do you swear or affirm under
- 23 the penalty of perjury that the testimony that you're about
- 24 to give is the truth, the whole truth, and nothing but the
- 25 truth?

- 1 MR. LEMBEROS: I swear.
- 2 EXAMINER: Okay. State your name and your address
- 3 and wait for Mr. Donohue to ask you questions. Did you,
- 4 you're going to --
- 5 MR. DONOHUE: Yep.
- 6 EXAMINER: You're not going as a witness?
- 7 MR. DONOHUE: No. These are supporters.
- 8 EXAMINER: Thank you. See. You take me out of
- 9 order.
- 10 MR. DONOHUE: Sorry about that.
- 11 EXAMINER: Not to witness, Nick. You're
- 12 testifying on behalf. So, state your name and your address
- 13 and tell me what you want me to know.
- MR. LEMBEROS: Okay. Nick Lemberos, 13602 Colfair
- 15 Drive, Silver Spring, Maryland 20904.
- 16 EXAMINER: Uh-huh. And did you submit a letter?
- MR. LEMBEROS: My wife sent a letter.
- 18 EXAMINER: Okay. I thought I saw the name. I
- 19 just wanted to make sure I had the, okay. Go ahead.
- 20 MR. LEMBEROS: Thank you for the flexibility here.
- 21 EXAMINER: No problem.
- 22 MR. LEMBEROS: I, actually, do have to leave. So,
- 23 life long resident of Montgomery County, and I've been
- 24 living in this area, roughly about a mile away from the
- 25 pool, for about 18 years. So, about 10 years ago, we were

1 looking for something for the kids to do. My wife suggested

- 2 we go sign them up at a pool someplace, and she suggested
- 3 Twin Farms, and I said I don't know where that is. Mind
- 4 you, I live one street off Fairland Road and drive by Twin
- 5 Farms all the time. There was only a small sign there and
- 6 the pool from Fairland Road is almost invisible. You really
- 7 can't see it unless you stop and look to the right. So, I
- 8 had no idea it was there. So, we have been members for
- 9 about 10 years. My kids go there. They swim there.
- 10 They've, my eldest has gotten a job there as a lifeguard.
- 11 So, we're part of that community. So, what I wanted to talk
- 12 about is I think this is a very useful effort. It's good
- 13 for the area, specifically for the pool but also for the
- 14 surrounding community. So, my wife and I work in technology
- 15 areas. We carry cell phones, blackberries, I-phones. We
- 16 are often trying to work from home and coverage in this area
- 17 is very weak, very poor, and so that limits our ability to
- 18 respond from a work perspective. In addition, as just came
- 19 up last night where there was a family emergency, and we
- 20 were in the house and Lonnie would be reached on her cell
- 21 phones, and the only way we could be reached was from our
- 22 home phones. So, for us cell phone, data, and voice
- 23 coverage is not a luxury. It's really part of our, the way
- 24 we make a living, and it's also a way of life for us and all
- 25 our children. So, it's really critical to us to have good

l coverage in that area, and so, I really just wanted to bring

- 2 up the fact that I live in the area. It's really important
- 3 to us to have good coverage. The question I would maybe ask
- 4 is if this is, from my perspective, it looks like an ideal
- 5 location. As far as it would be almost invisible and if
- 6 it's not done here, something needs to be done in the area,
- 7 and I'm unaware of where else we could find a solution,
- 8 whether it's with a different carrier or a different type of
- 9 solution. It's all residential. There is valleys in that
- 10 area and, like I said, from living in the area for almost 20
- 11 years, there really isn't, in my opinion, a better location
- 12 to place a tower.
- 13 EXAMINER: Okay. Do you have any questions?
- MR. DONOHUE: No. I don't.
- 15 EXAMINER: Okay. Just, you, you've been there 18
- 16 years.
- 17 MR. LEMBEROS: Uh-huh.
- 18 EXAMINER: And how far away from, where's Colfair?
- 19 MR. LEMBEROS: Colfair is to the east.
- 20 EXAMINER: If I'm looking at the map --
- MR. LEMBEROS: It's to the east about a mile.
- 22 MR. DONOHUE: Could I suggest that that coverage
- 23 map, if you would tear that coverage --
- EXAMINER: Oh. That's a good idea. 10.
- 25 MR. DONOHUE: Coverage. He could show you where

1 his house is. The colored map. The color one. Curtis,

- 2 that you had shown.
- 3 MR. JEWS: Oh. The possible coverage?
- 4 MR. DONOHUE: Yeah. Because she can see all the
- 5 neighborhoods.
- 6 EXAMINER: Okay. Just give me a general idea.
- 7 MR. LEMBEROS: Sure. Yeah.
- 8 EXAMINER: When you say that you're about a mile
- 9 away.
- MR. LEMBEROS: All right. So, right here where
- 11 it's yellow, that's Colfair Drive.
- 12 EXAMINER: Okay.
- MR. LEMBEROS: So, Colfair intersects directly
- 14 with Fairland Road.
- 15 EXAMINER: Is that over by Cloverly?
- 16 MR. LEMBEROS: Cloverly is further north.
- 17 EXAMINER: Oh. Cloverly's further north. Okay.
- 18 MR. LEMBEROS: So, this is the Old Columbia, the
- 19 Exxon Church through here. There's a big dip through
- 20 Fairland as it goes across.
- 21 EXAMINER: Okay.
- 22 MR. LEMBEROS: It's, it's a common thing with this
- 23 whole development. It's called Fairland Estates.
- 24 EXAMINER: Okay.
- MR. LEMBEROS: My neighbors, the same thing. We

1 are limited on carriers that we can get because we really do

- 2 get almost no coverage in that area.
- 3 EXAMINER: Okay. All right. Thanks for that
- 4 perspective.
- 5 MR. LEMBEROS: I didn't know it was yellow before
- 6 I came up there.
- 7 EXAMINER: Now you know. Thank you very much.
- 8 MR. LEMBEROS: Sure. Thank you for selecting.
- 9 Thank you.
- MR. DONOHUE: Thank you.
- 11 EXAMINER: Thanks for being patient. Okay. Who
- 12 wants to go next?
- MR. BADRIAN: I don't know. I mean, I don't know
- 14 if it really makes a difference but I just --
- 15 EXAMINER: No. You can't testify. You've got to
- 16 come up here.
- MR. DONOHUE: Yes. It does make a difference.
- 18 You will, you'll like where he is.
- 19 EXAMINER: Okay. So, what's your name?
- 20 MR. BADRIAN: Michael Badrian.
- 21 EXAMINER: Okay.
- MR. BADRIAN: Wrote a letter.
- 23 EXAMINER: Oh. We just got that yesterday.
- 24 Right?
- MR. BADRIAN: Yes.

1 EXAMINER: Or day before. All right. How do I say

- 2 your last name?
- 3 MR. BADRIAN: Badrian.
- 4 EXAMINER: Badrian?
- 5 MR. BADRIAN: Yes.
- 6 EXAMINER: Okay. If you'd raise your right hand?
- 7 MR. BADRIAN: Okay.
- 8 EXAMINER: Do you swear or affirm under the
- 9 penalty of perjury that the testimony you're about to give
- 10 is the truth, the whole truth, and nothing but the truth?
- 11 MR. BADRIAN: I do.
- 12 EXAMINER: Okay. I need you to state your name,
- 13 your address, and I definitely would like to know where you
- 14 live in terms of relationship to the site.
- MR. BADRIAN: Once again, I'm Michael Badrian.
- 16 EXAMINER: Uh-huh.
- 17 MR. BADRIAN: And I live at 13604 Hobart Drive in
- 18 Silver Spring, Maryland. Zip code's 20904.
- 19 EXAMINER: So, you are lot number 2.
- 20 MR. BADRIAN: Yes. I'm a abutting property owner.
- 21 EXAMINER: Okay.
- 22 MR. BADRIAN: And I'm house lot 2 on the site plan
- 23 map, and roughly 185 feet from the --
- 24 EXAMINER: Right.
- 25 MR. BADRIAN: -- from the mine pole antennae.

- 1 EXAMINER: Right.
- 2 MR. BADRIAN: And I just wanted to voice my
- 3 support for the tower. I don't oppose it at all and just
- 4 wanted to--
- 5 EXAMINER: Let me look at your letter.
- 6 MR. BADRIAN: Yeah. Okay.
- 7 EXAMINER: Or you can tell me what your, let's
- 8 see. Sue and Michael Badrian.
- 9 MR. BADRIAN: Yes. We don't oppose it at all,
- 10 and, and you know, we're okay with it.
- 11 EXAMINER: Okay. Well, were you there during the
- 12 balloon test?
- MR. BADRIAN: Actually, we, we missed that but we
- 14 were aware of it.
- 15 EXAMINER: You were aware of it but --
- MR. BADRIAN: Yes. We knew that they were coming
- 17 out in July.
- 18 EXAMINER: Okay.
- 19 MR. BADRIAN: Just couldn't make it that day but
- 20 we certainly have an imagination, and we could protract it
- 21 out in our, in our view from our, from our house and it, I
- 22 mean, certainly we can see, you know, through the trees. If
- 23 we really tried, we could see that.
- 24 EXAMINER: The area in which this would be
- 25 located.

- 1 MR. BADRIAN: Yes.
- 2 EXAMINER: You know where that is?
- 3 MR. BADRIAN: Yes.
- 4 EXAMINER: And you heard Mr. Shabshab talk, how do
- 5 I say the last name?
- 6 MR. DONOHUE: Shabshab.
- 7 EXAMINER: Shabshab.
- 8 MR. DONOHUE: That's why we call him Camille.
- 9 EXAMINER: That's all right. Half the people call
- 10 me Tammy. They don't even try Citara-Manis.
- 11 MR. DONOHUE: Yeah. That's right.
- 12 EXAMINER: He talked about line of site as well as
- 13 and when the trees are down.
- MR. BADRIAN: Uh-huh.
- 15 EXAMINER: What can you see?
- 16 MR. BADRIAN: We, we couldn't really see. I mean,
- 17 we might be able to see the top. Yeah. Thirty percent of
- 18 it. That's half.
- 19 EXAMINER: The top would be cell tower?
- 20 MR. BADRIAN: Yes. But, you know, it's a, it's a
- 21 flag pole. We're okay with it.
- 22 EXAMINER: Oh. Because it's, yeah. Okay. All
- 23 right. Anything else you want to --
- MR. BADRIAN: No.
- 25 EXAMINER: Okay. Did you have any questions?

1 MR. DONOHUE: No. I don't. Thank you.

- 2 MR. BADRIAN: Sure.
- 3 EXAMINER: Thank you very much for coming out.
- 4 MR. BADRIAN: Uh-huh.
- 5 EXAMINER: And I have your, your letter which is
- 6 Exhibit 72. So, that's in the record.
- 7 MR. BADRIAN: Thanks a lot.
- 8 EXAMINER: Okay. Great. Okay. Who's next?
- 9 MR. MALONEY: I'll, I'll just speak very briefly.
- 10 EXAMINER: Well, you are Mr. Maloney?
- MR. MALONEY: Yes.
- 12 EXAMINER: I got lucky there, didn't I?
- MR. MALONEY: Process of elimination?
- 14 EXAMINER: Exactly. I was down to two and I know
- 15 who Mr. Hagler is but, Hagler. Okay. I need you to raise
- 16 your right hand. Do you swear or affirm under the penalty
- 17 of perjury that the testimony you're about to give is the
- 18 truth, the whole truth, and nothing but the truth?
- 19 MR. MALONEY: I do.
- 20 EXAMINER: Okay. I need you to state your name
- 21 and your address.
- 22 MR. MALONEY: John Maloney, M-A-L-O-N-E-Y.
- 23 Address is 12527 Farnell Drive, Silver Spring, Maryland. I
- 24 don't think it will be on any of those maps. I'm probably a
- 25 couple of miles away off of Randolph Road on the other side

- l of New Hampshire Avenue. But, just as a couple points I
- 2 just wanted to add, and I'm sure Mr. Hagler will cover most
- 3 of them. But, as a person in the area who uses that area
- 4 quite frequently, just as the last witness said, it's a
- 5 problem with the dropped calls and people not being able to
- 6 communicate. It causes great trouble and problems for
- 7 family as we try to communicate. I have two teenage boys
- 8 who work at the Twin Farms --
- 9 EXAMINER: Oh. Okay.
- 10 MR. MALONEY: -- socialize in that area, walk on
- 11 the streets of, I mean, Fairland, take buses, and often need
- 12 to communicate with them from my office which is right next
- 13 door to here which cause great problem. We cannot
- 14 communicate. It does cause great problems. Something I
- 15 heard today scared the heck out of me about the dropped
- 16 calls with the 911s and not being able to get through
- 17 especially my son's hundreds of yards away from anywhere
- 18 when he's on the road because he has severe allergies. If
- 19 something were to happen there or anywhere, I think that is
- 20 a grave safety concern and that was quite alarming
- 21 testimony, I thought. We heard today about the problem with
- 22 911 calls where people that have had to call rescue squads a
- 23 number of times because of reactions. It happens, and
- 24 there's other, lots of other people in our situation. I
- 25 think the need for increased coverage is very important.

1 One tack I might add that, as my job, I'm the deputy states

- 2 attorney, Montgomery County, cell coverage helps
- 3 tremendously. It helps the neighborhoods. It helps people,
- 4 all of us, as we fight crime, we use cell tower information.
- 5 T-Mobile has been a great corporate citizen with us working
- 6 with on, as many cases as we can, we try to get cell
- 7 information about people involved in crimes, use it against
- 8 them, driving to enforce and keep people from committing any
- 9 further crime. Cell towers help that and the closer you
- 10 can, the more you can have, the more the better from my
- 11 perspective. I think Mr. Hagler's going to talk about the
- 12 need for Twin Farms and the need for --
- 13 EXAMINER: All right. Just tell me what you, from
- 14 your perspective. Not what he can tell me.
- MR. MALONEY: Well, from my perspective, Twin
- 16 Farms needs the money for this tower. It would help
- 17 tremendously. I know I was a little disappointed in the
- 18 staff report. They talk about how, you know, they
- 19 projected, basically, some opposition concerns from the
- 20 neighborhood. There's only one letter of opposition but
- 21 maybe concerns from other people as to what will occur in
- 22 this area. If anything happens to Twin Farms with because I
- 23 know, being a member, about the, shall I say, dubious
- 24 financial status of the pool, if that was to go, pool
- 25 memberships are down everywhere. Everybody knows that, you

- 1 know. People have gone to more general pools and visual
- 2 pools are having troubles, and we're not just, we're one of
- 3 many. If that were to happen, you just heard about the
- 4 completely covered area. It doesn't take anybody in my
- 5 position. It just dictates common sense. This would be a
- 6 beacon for crime in an area that is lowered, completely
- 7 covered on all sides by trees, a building right there.
- 8 Every kind of crime you will have imagined for them to be
- 9 incurred in there because it would be a perfect location for
- 10 doing that. I don't think that would help the neighborhood
- 11 in any manner whatsoever, and I think, you know, the tower
- 12 was one, that was one of many things that could help prevent
- 13 for the general good of the public. So, for the coverage
- 14 areas, for the lack of opposition which I, you know, see,
- 15 except for one person, lack of opposition when they were on
- 16 notice, I see many cases in Maryland law that said lack of
- 17 opposition, you can generally consider the opposite that
- 18 they don't vote, and I mean, that just --
- 19 EXAMINER: Well, you were here in the beginning
- 20 when I told you this is not a popularity contest.
- MR. MALONEY: Absolutely not.
- 22 EXAMINER: Okay. It's the criteria. You
- 23 obviously, I'm sure, looked at the criteria.
- MR. MALONEY: I know but I, as you, look at the
- 25 criteria used on the staff report --

- 1 EXAMINER: Uh-huh.
- 2 MR. MALONEY: It seems like they were concerned
- 3 about the aesthetics for the people in the area.
- 4 EXAMINER: Well, it's just whether the setbacks,
- 5 there's enough information to grant the waivers because the
- 6 setbacks are there for a reason.
- 7 MR. MALONEY: Yes. And from what I read in the
- 8 report, I felt they were concerned about what the aesthetics
- 9 would be from.
- 10 EXAMINER: Well, yeah. I mean, that, that is
- 11 certainly a factor that they consider.
- MR. MALONEY: And so they are considering
- 13 opposition that did not occur, and so that's my point I'm
- 14 trying to make is I don't know if we can really consider
- 15 opposition when there are notice of things. They told about
- 16 it. We've heard from the experts on what their view points
- 17 or lack thereof will be in this very covered area. So, what
- 18 I'm trying to suggest is, and I think the Counsel has
- 19 probably most of this area is that people on notice, my
- 20 experience has been, and the law in my area that I deal. I
- 21 don't deal in your area. It's been that people are on
- 22 notice. They have a chance to oppose, and they choose not
- 23 to, we've generally considered the opposite that there is
- 24 not a strong opposition, and so there's not a complaint
- 25 about the aesthetics of what we have and they're projecting

- 1 a lot of people might oppose the viewpoint of this tower.
- 2 Well, I'm, I'm not so sure. Some people might like a flag
- 3 pole is my point of suggestion.
- 4 EXAMINER: Right, But, in, in looking at 59G258,
- 5 it's, there are different factors to consider with regards
- 6 to the tower and whether everybody likes it or not, I mean -
- 7 –
- 8 MR. MALONEY: I agree. It's not a popularity --
- 9 EXAMINER: The 300 feet setback is for a reason.
- 10 It doesn't mean it can't be reduced but there has to be a
- 11 reason to support that.
- MR. MALONEY: Right.
- 13 EXAMINER: And here we have eight, nine, well,
- 14 plus one flat foot.
- MR. MALONEY: Okay.
- 16 EXAMINER: So, but, so you live in, a couple miles
- 17 away but your children work at the pool and you're a member?
- 18 MR. MALONEY: The children work at and frequent,
- 19 and I have a 12-year-old daughter who's apparently the last
- 20 12-year-old in the world not to have a cell phone but I
- 21 think she will in the next year or so, and so, yes.
- 22 Coverage is very important to us because they socialize
- 23 there. They work there. They, we belong there.
- 24 EXAMINER: And you talked about the dropped calls.
- 25 Are you saying when you're driving or you're actually on

- 1 the premises.
- 2 MR. MALONEY: I call from right next door here
- 3 trying to get a hold of my children. All kinds of things
- 4 when I've been there for --
- 5 EXAMINER: But just in the area. Because maybe
- 6 the cell tower here is not working very well. I didn't say
- 7 that.
- 8 MR. MALONEY: Well, I've had thousands from --
- 9 EXAMINER: I don't know. That's what I'm asking.
- 10 I really would like for around the area.
- MR. MALONEY: I've had problems on Fairland Road.
- 12 EXAMINER: That's what I want to hear.
- MR. MALONEY: From Randolph Road.
- 14 EXAMINER: Where you've experienced the problems.
- 15 MR. MALONEY: Yes. And we drive that area for
- 16 everything in our lives, frequently.
- 17 EXAMINER: Okay.
- 18 MR. MALONEY: Been at the pool numerous times --
- 19 EXAMINER: Okay.
- 20 MR. MALONEY: -- with problems getting out to make
- 21 calls. So, it is an issue. Thank you for having --
- 22 EXAMINER: Did you --
- MR. DONOHUE: Are you kidding?
- 24 EXAMINER: No. I'm just, I'm doing my job asking
- 25 making sure you don't come back and say you didn't let me

- l cross examine.
- 2 MR. DONOHUE: Thanks.
- 3 MR. MALONEY: Thank you very much.
- 4 EXAMINER: Thank you very much.
- 5 MR. DONOHUE: As a prosecutor, I'm not going to
- 6 ask any questions.
- 7 EXAMINER: Good thing I didn't know that before
- 8 hand. No. Okay. I have Mr. Hagler. Hagler? Hagler?
- 9 MR. HAGLER: Hagler. Just a question to you Madam
- 10 Chairman. I can talk as long, I'm going to fill in pieces
- 11 that I thought that and, obviously, answer any questions.
- 12 EXAMINER: Okay.
- MR. HAGLER: Because I know the property. I can
- 14 speak in great, I've been with this since the beginning.
- 15 So, I can answer any question in greater details but I'm not
- 16 sure what your schedule is. I'm here all day. So, I can go
- 17 next if there's anyone that had to be.
- 18 EXAMINER: Okay. Well, let --
- 19 MR. HAGLER: I will accommodate whatever you would
- 20 like, Madam Chairman.
- 21 EXAMINER: Well, I'm hear for this hearing and if
- 22 you're ready to give testimony. There's a lady in the back
- 23 waiving her hand.
- MS. HYLTON: I would like to just testify as far
- 25 as my support.

1 EXAMINER: You need to come on up and give me your

- 2 name.
- MR. DONOHUE: Madam Chair, while she's coming up,
- 4 let me ask you. I've rested, and I'm not intending to call
- 5 my witnesses back. But, if you have questions for them,
- 6 I'll keep them. In particular, our engineer has got kind of
- 7 a pressing engagement.
- 8 EXAMINER: Oh. Okay.
- 9 MR. DONOHUE: It's not my intent to call them back
- 10 up to the table. But, if you'd like him to stay, he can
- 11 stay.
- 12 EXAMINER: I did want to have, I did have a just a
- 13 --
- MR. DONOHUE: Okay.
- 15 EXAMINER: And he might have already answered this
- 16 question with regards to height and I'm just, just as
- 17 abundance of caution making sure I got his, actually,
- 18 certainly the record probably is clear enough. I just
- 19 wanted to make sure that it was at the minimum height is
- 20 really what --
- MR. DONOHUE: That's what he said but he can say
- 22 it again if you like?
- 23 EXAMINER: Okay. It's, so that's --
- MR. DONOHUE: Okay.
- 25 EXAMINER: Mr. Jews? Of course, yes. Real quick.

- 1 Do you mind? Do you mind?
- 2 MR. SHABSHAB: If you don't need the rest of us
- 3 maybe we can go though?
- 4 EXAMINER: Okay. I don't know yet until we get
- 5 through. I don't think I do.
- 6 MR. DONOHUE: You sit down.
- 7 EXAMINER: Thank you very much.
- 8 MR. JEWS: No problem.
- 9 EXAMINER: Mr. Jews is back on the stand. You're
- 10 already under oath. Just clarify that I understand that the
- 11 125 is the minimum.
- MR. JEWS: Yes, ma'am.
- 13 EXAMINER: I know you had talked about lowering it
- 14 because of visibility but can it go, could it go any lower
- 15 and still be, still satisfy?
- MR. JEWS: No, ma'am.
- 17 EXAMINER: Okay. I just want to, I mean is that
- 18 an issue that was ever raised with the tower coordinator?
- 19 MR. JEWS: Not that I'm aware of. No. Not that
- 20 I'm aware of.
- 21 EXAMINER: Okay.
- 22 MR. JEWS: I wasn't asked to re-evaluate it at, at
- 23 that height.
- 24 EXAMINER: Okay.
- 25 MR. JEWS: Sorry. Or different heights.

1 EXAMINER: Okay. All right. Thank you very much.

- 2 MR. JEWS: No problem.
- 3 MR. DONOHUE: Thanks.
- 4 EXAMINER: I appreciate your patience. Your name?
- 5 MS. HYLTON: My name is Janice Hylton, H-Y-L-T-O-
- 6 N.
- 7 EXAMINER: I think I've seen that name before,
- 8 too. Did you send in --
- 9 MS. HYLTON: I sent a letter.
- 10 EXAMINER: Okay. Great. Raise your right hand.
- 11 Do you swear or affirm under the penalty of perjury that the
- 12 testimony you're about to give is the truth, the whole
- 13 truth, and nothing but the truth?
- MS. HYLTON: I do.
- 15 EXAMINER: Okay. And so if you could state your
- 16 name and address and then tell me what it is you want me to
- 17 know.
- 18 MS. HYLTON: Okay. My name is Janice Hylton.
- 19 EXAMINER: Uh-huh.
- 20 MS. HYLTON: I live at 1533 Ivystone Court, Silver
- 21 Spring, Maryland 20904.
- 22 EXAMINER: Okay. And where is Ivystone in
- 23 relationship to the property?
- MS. HYLTON: It's about a half a mile --
- 25 EXAMINER: Okay. If you want to, okay. I got it.

- 1 Got it under control.
- 2 MS. HYLTON: It's about a half mile to the east?
- 3 EXAMINER: If you just, you want to go up to the,
- 4 10. Just flip it up and that way I can at least have a
- 5 perspective. I think it's 10A. I'm looking face on.
- 6 You're --
- 7 MS. HYLTON: I think I'm, I'm right out here.
- 8 EXAMINER: Okay. So, you're northeast.
- 9 MR. DONOHUE: Right.
- 10 EXAMINER: Okay. Great. Thank you. Okay.
- 11 MS. HYLTON: So, what I wanted to testify in
- 12 support. I was at the balloon testing.
- 13 EXAMINER: Uh-huh.
- MS. HYLTON: In fact, I was very excited to see
- 15 the balloon in the air but I couldn't see it from my house.
- 16 Even driving through the neighborhood and looking up out of
- 17 my car. It was very high, so you really, unless you're
- 18 walking, looking like this, you really couldn't see where
- 19 the balloon was. Even driving along Fairland Road, and
- 20 again, looking out the car.
- 21 EXAMINER: What direction were you driving on
- 22 Fairland? Both ways?
- 23 MS. HYLTON: I actually went past the pole and
- 24 came back. So, not until I was actually on Twin Farms
- 25 property did I, you know, was able to see at a glance. I

1 wasn't able to see it from the surrounding neighborhood, and

- 2 also I live in an area where cell phone service is really
- 3 bad. I actually have two different services. In my house,
- 4 the people living in my house, and unless one service
- 5 doesn't work at all, the other, you have to stand perfectly
- 6 still and if I'm in the house. So, I do have three teenage
- 7 children, too, which worked at Twin Farms, and I've been a
- 8 member for about 17, 18 years at Twin Farms, and the same
- 9 problem has happened where my kids are working and a
- 10 thunderstorm happens or if they're at the pool and they need
- 11 a ride, they're trying to call me from their cell phone. I
- 12 don't get the call, they can't make the call. So, there's
- 13 plenty of times when the calls just don't come through.
- 14 And, if I'm on the cell phone in my car heading into my
- 15 neighborhood, probably I would say half the time the call
- 16 will drop going down Fairland Road, and when I get back into
- 17 the neighborhood, it, it drops automatically. So, again, I
- 18 do support the tower. I think, again, it's a safety issue.
- 19 We have a lot of children in our neighborhood. A lot of
- 20 children standing on bus stops at 6:00 o'clock, 6:15 in the
- 21 morning when it's especially dark in the winter time and
- 22 then the buses don't show up and they have to call their
- 23 parents. So, that has always been a concern to me because
- 24 there are so many kids walking through the neighborhood in
- 25 this early morning hour. So, so I do support it. I think

- 1 it's something that's needed in our neighborhood.
- 2 EXAMINER: Okay. And when you did your driving
- 3 around, going back to the balloon test, was it, at any point
- 4 did you get off at any side streets to see? Did you drive
- 5 any other side streets next to Twin Farms?
- 6 MS. HYLTON: When I come out of my
- 7 neighborhood --
- 8 EXAMINER: Uh-huh.
- 9 MS. HYLTON: I have to turn left to get down to
- 10 Fairland Road.
- 11 EXAMINER: Okay.
- MS. HYLTON: And I turned right and kind of round
- 13 about to, up Castle Cliff Road to Hobart Lane, I think it
- 14 EXAMINER: Right.
- MS. HYLTON: And my son was with me in the car,
- 16 and he was looking out to try to see it. So, it was, I
- 17 mean, to me unless you're looking up in the sky looking for
- 18 something, it wasn't something you noticed driving through
- 19 the neighborhood or driving up and down Fairland Road and
- 20 Fairland is a, you know, pretty busy path especially during
- 21 rush hour and that's when the balloon test was taking place.
- 22 8:00 o 'clock to 11:00 o'clock. So, it was during rush
- 23 hour. Except for that one couple that I guess stopped there
- 24 because there were curious about hearing that the balloon
- 25 was going to be there or they saw it, actually.

- 1 EXAMINER: Right.
- 2 MS. HYLTON: Somehow. I just didn't see where
- 3 something that tall would create a problem. It wasn't
- 4 something that stuck out to me, at least.
- 5 EXAMINER: All right. No questions?
- 6 MR. DONOHUE: No questions. No.
- 7 EXAMINER: Thank you very much for coming out.
- MR. DONOHUE: Thank you.
- 9 EXAMINER: Okay. Mister, just one more time
- 10 before I bring Mr. Hagler up, is there anybody else who
- 11 wants, who decided they'd like to testify in support right
- 12 now? Okay. You're on.
- MR. HAGLER: Thank you.
- 14 EXAMINER: Good enough. And before, I, well, I'll
- 15 swear you in and then we'll talk about your capacity. Do
- 16 you swear or affirm under the penalty of perjury that the
- 17 testimony you're about to give is the truth, the whole
- 18 truth, and nothing but the truth?
- MR. HAGLER: Yes, ma'am.
- 20 EXAMINER: Okay. Great. State your name and your
- 21 address and then tell me in what capacity you heard what I,
- 22 what I said at the very beginning. Obviously, we don't have
- 23 any opposition here. So, it's probably a mute point at this
- 24 point but at the same time, I want the record to be clear.
- 25 You're either here on your own behalf as a supporter, and if

l you're speaking on behalf of a group, actually, I think the,

- 2 the list said Hill and Dale Swim Club. I was like well,
- 3 that doesn't make and sense.
- 4 MR. DONOHUE: We've spent a lot of time with Hill
- 5 and Dale.
- 6 EXAMINER: Yes. That's what I figured but you're
- 7 Twin Farms. So, so in what capacity are you testifying?
- 8 MR. HAGLER: Would you like my name and address?
- 9 EXAMINER: I do. Thank you.
- 10 MR. HAGLER: Yes. See, I've learned. I'm
- 11 Government work. I can be trained. It is Jay Hagler, H-A-
- 12 G-L-E-R.
- 13 EXAMINER: Hagler. Okay.
- MR. HAGLER: I live at 1325 Crockete Lane which is
- 15 the road directly behind the pool, and I'm here to basically
- 16 fill in some pieces. Explain papers that I had
- 17 provided--
- 18 EXAMINER: Definitely.
- 19 MR. HAGLER: And what it is and basically to
- 20 answer your questions, Madam Chairman. But, I'm here on two
- 21 capacities. One is I am the board chairman of Twin Farms
- 22 Swim and Tennis Club. I have been the board chair since 19,
- 23 2000, yeah, and I hope not, 2007, and I've been dealing with
- 24 T-Mobile since we were first approached in January 2008.
- 25 So, I've been following it. So, I can fill in any gaps of

1 what might have occurred between here and there by just

- 2 assuming the board.
- 3 EXAMINER: So, you're speaking here as the board
- 4 chair?
- 5 MR. HAGLER: I'm speaking on behalf of the board.

6

- 7 EXAMINER: You have --
- 8 MR. HAGLER: I have, if you need it, from all the
- 9 board members saying I can speak on their behalf.
- 10 EXAMINER: Absolutely.
- 11 MR. HAGLER: I have bylaws that state that --
- 12 EXAMINER: That's what I was going to ask you.
- MR. HAGLER: Yes.
- 14 EXAMINER: If you didn't have that then, you'd be
- 15 under oath so --
- MR. HAGLER: I give you --
- 17 EXAMINER: Why don't we just go ahead and --
- MR. HAGLER: Am I allowed to approach the --
- 19 EXAMINER: Absolutely. You can approach.
- MR. HAGLER: Okay.
- 21 EXAMINER: Why don't you give --
- 22 MR. HAGLER: I don't want to violate --
- 23 EXAMINER: I appreciate the --
- MR. HAGLER: I have, I have for you a signed
- 25 letter from all of our --

1 EXAMINER: I'm going to mark this, we're up to--

- 2 MR. DONOHUE: 74. It should be 75.
- 3 EXAMINER: This will be 75. Yeah. Yep. It is
- 4 75. So, I'll just put that in the record. This is your,
- 5 the resolution giving you authority. We have here --
- 6 MR. HAGLER: That the board supports it and I
- 7 support, I represent the members.
- 8 EXAMINER: Okay. Wait a minute. Let me read it.
- 9 Okay. We authorize, the second paragraph, We authorize Mr.
- 10 Jay Hagler, Board Chair, to represent the board and members.
- 11 So, you have the authority to speak on their behalf. Okay.
- 12 So, that will be marked as Exhibit 75. It is dated
- 13 September 27, 2011. So, it's the board. Okay. So, Exhibit
- 14 75, and that will be made a part of the record.
- MR. HAGLER: Yes.
- 16 EXAMINER: You've been --
- MR. HAGLER: I have for you our bylaws which says
- 18 that the board represents the interest, and I can quote you
- 19 that section if you needed that or not.
- 20 EXAMINER: I'll just --
- 21 MR. HAGLER: Or if you don't want it. I brought
- 22 everything that you could ever ask.
- 23 EXAMINER: I don't know that I need it really.
- MR. HAGLER: Okay.
- 25 EXAMINER: All I need is --

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1 MR. HAGLER: Okay. Then I'll take it back.
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- 2 EXAMINER: -- is you having the authority to speak
- 3 on behalf of the group, and as I said, technically, you were
- 4 to have identified yourself. As it is, --
- 5 MR. HAGLER: Okay.
- 6 EXAMINER: -- you're identified as the president
- 7 of another swim club.
- 8 MR. HAGLER: Okay,.
- 9 EXAMINER: That's having, there's no opposition
- 10 I'm sure. Mr. Donohue doesn't have any opposition.
- 11 MR. DONOHUE: Right. None.
- 12 EXAMINER: So, I'm going to let you testify on
- 13 behalf of the group but next time, if there is a next time,
- 14 you have to --
- MR. HAGLER: Right.
- 16 EXAMINER: The rules require 10 days prior.
- 17 MR. HAGLER: Okay.
- 18 EXAMINER: Okay. So go ahead.
- 19 MR. HAGLER: So, I am representing that, and I can
- 20 also speak for myself. I live behind. So, 99 percent of
- 21 anything I will say is on behalf of the pool but I am a
- 22 resident behind the pool. So, I am affected.
- 23 EXAMINER: Okay. So, why don't you speak on
- 24 behalf of the board first --
- MR. HAGLER: Okay. Sure. Sure.

1 EXAMINER: -- and then tell me personally from

- 2 your --
- 3 MR. HAGLER: Okay.
- 4 EXAMINER: -- where you live.
- 5 MR. HAGLER: Okay. I can. Sure. I guess, let me
- 6 explain, because you've had all the art work that I've put
- 7 together.
- 8 EXAMINER: Exhibit 74.
- 9 MR. HAGLER: Yes.
- 10 EXAMINER: Go ahead. You want to give that to,
- 11 Exhibit 74. He's going to --
- MR. HAGLER: Yeah. I gave you all my copies of
- 13 them. I also have it electronically if you need it for the
- 14 record.
- 15 EXAMINER: Yes. Uh-huh.
- 16 MR. HAGLER: I can pass. I have that.
- 17 EXAMINER: Yes. Exhibits --
- 18 MR. HAGLER: Having followed all of this
- 19 information and to provide information to our members, I,
- 20 too, was at the balloon test.
- 21 EXAMINER: Okay.
- 22 MR. HAGLER: Because, I, I've seen the blueprints
- 23 from day one. What does 125, what does it look like? So, I
- 24 was particularly interested at being at the balloon test.
- 25 So, I was there and so as a point of reference on Exhibit

1 74A, this was an overview. In the other material that I had

- 2 seen, I hadn't seen all of the exhibits, this shows the best
- 3 picture of it.
- 4 EXAMINER: Okay. First of all, why don't you tell
- 5 us what 74 is?
- 6 MR. HAGLER: Yes. Yes, ma'am.
- 7 EXAMINER: When you took the pictures?
- 8 MR. HAGLER: Okay.
- 9 EXAMINER: And what, does what I have in front of
- 10 me fairly describe or what --
- 11 MR. HAGLER: Yes, ma'am.
- 12 EXAMINER: -- the area.
- MR. HAGLER: That I pulled off of Google Earth.
- 14 EXAMINER: The first one?
- MR. HAGLER: The first one.
- 16 EXAMINER: Okay.
- 17 MR. HAGLER: 74A. I pulled it off of Google Earth
- 18 because it probably is the best way to get a --
- 19 EXAMINER: Overview.
- 20 MR. HAGLER: -- feeling, overview, --
- 21 EXAMINER: Uh-huh.
- 22 MR. HAGLER: -- of the tree coverage and what we
- 23 are talking about, You say hills and trees and tennis
- 24 courts. I've seen the engineering drawings but this is
- 25 better for me to understand.

- 1 EXAMINER: Okay.
- MR. HAGLER: Along where the tower is, and I also
- 3 marked on here because when we were approached initially, I
- 4 immediately notified the members which actually live at lots
- 5 1, 2, and 11 because they are the closest to the tower. So,
- 6 they were immediately aware from day one. So, that's why I
- 7 just annotated because you've been talking about setbacks,
- 8 and Mr. Behjeran (phonetic sp.) is lot 2. So, I just want a
- 9 perspective of what it looks like in a non-engineering
- 10 drawing. So, I just annotated that. I annotated the cell
- 11 tower which is about midway on the, we have two tennis
- 12 courts. The one closest to the parking lot. Just that's,
- 13 that little star. When I was there for the balloon test, I
- 14 took two pictures. I took pictures from --
- 15 EXAMINER: Let me ask before you go on to the next
- 16 one. When did you download this? What's the age of it?
- MR. HAGLER: I downloaded this two days ago. Two
- 18 or three days ago. It was done this week. Wednesday.
- 19 EXAMINER: Okay. So, --
- 20 MR. HAGLER: This one I downloaded Wednesday. I
- 21 would suspect it probably is the same. I don't know how
- 22 often Google Earth updates it but, yes. It was recent.
- 23 EXAMINER: Okay.
- MR. HAGLER: And it obviously shows the summer
- 25 because if it was a winter shot, the chairs wouldn't be out,

- l the water wouldn't be blue. So, but I don't know when it
- 2 was other than it's during the summer season which runs from
- 3 Memorial Day to Labor Day. So, somewhere, I don't know.
- 4 This year. Last year. I have no information. So --
- 5 EXAMINER: Okay. But, it's a, you believe based
- 6 on living there and being there it accurately reflects --
- 7 MR. HAGLER: Yes. Yes.
- 8 EXAMINER: -- what's in this picture?
- 9 MR. HAGLER: Yes. Yes, ma'am.
- 10 EXAMINER: The tennis courts. the basketball
- 11 court, the club house. The main pool there. The L shape is
- 12 our main pool. to the left of the L shape, there's a
- 13 covered pavilion and between the pavilion's if you come
- 14 south, there's a baby pool Some of the shadows.
- 15 EXAMINER: Oh. Okay. I see that.
- 16 MR. HAGLER: So, and that's depicted on the
- 17 drawing up there. So, I think that gives you a better
- 18 feeling of what you're looking at.
- 19 EXAMINER: Oh. And Crockete lane is --
- 20 MR. HAGLER: Is right behind there. Is that
- 21 circle. That --
- 22 EXAMINER: And is your house in this picture at
- 23 all?
- MR. HAGLER: I am. Can I show you?
- 25 EXAMINER: Absolutely.

1 MR. HAGLER: Just to orient you. That's why I

- 2 wanted to --
- 3 EXAMINER: And just tell me what exhibit you're
- 4 looking at to orient me.
- 5 MR. HAGLER: Yes. I am, again, looking at 74A,
- 6 Z1.
- 7 EXAMINER: Z1.
- 8 MR. HAGLER: What I was saying here. This is our
- 9 main pool which you see the blue water in 74. There's a
- 10 covered pavilion here, and then there's a baby pool area,
- 11 and there it says existing bath house on this, on this site
- 12 plan. I took, and I'll show you where I live. I took one
- 13 picture standing right in front of the bath house looking
- 14 this way to the balloon test. That's my photos 1 and 2. I
- 15 physically stood there.
- 16 EXAMINER: You're, and that would be on --
- 17 MR. HAGLER: Yes. And I'll explain.
- 18 EXAMINER: Okay. Okay.
- 19 MR. HAGLER: I just want to show you where I was
- 20 doing it. So, photos 1 and 2, I stood right outside the
- 21 door. Just this way.
- 22 EXAMINER: Okay. So that would be south?
- MR. HAGLER: That would be south.
- 24 EXAMINER: Looking south.
- 25 MR. HAGLER: And then I went to the back of our

1 property, where the grass is, where the chairs are in this.

- We see the chairs?
- 3 EXAMINER: Uh-huh.
- 4 MR. HAGLER: Those are about, probably about this
- 5 location just to see what you might see as you sat--
- 6 EXAMINER: Oh. I see what you're, okay. Okay.
- 7 MR. HAGLER: So, I was doing that. In the back
- 8 here, there are, on this exhibit, lots 6, 7, and 8. They
- 9 are, there's a cul-de-sac. They are the houses you see, you
- 10 see one house. You actually see the house 6 is the best.
- 11 You see 7. You don't really see 8.
- 12 EXAMINER: Okay.
- 13 MR. HAGLER: This is an orientation. Can I
- 14 approach?
- 15 EXAMINER: Yes. Please.
- 16 MR. HAGLER: I don't want to -- Yes. This is 6.
- 17 That's 7. 8 is in this --
- 18 EXAMINER: Shadow.
- 19 MR. HAGLER: Yeah. In that shadow because the sun
- 20 is obviously going this way.
- 21 EXAMINER: Right.
- 22 MR. HAGLER: So, I'm just pointing out.
- 23 EXAMINER: And where do you live?
- MR. HAGLER: I live further down this road
- 25 which --

- 1 EXAMINER: Okay.
- 2 MR. HAGLER: -- this field --
- 3 EXAMINER: So, it's not on the map?
- 4 MR. HAGLER: It's not on the map. Off of this one
- 5 --
- 6 EXAMINER: If we're looking at 10A.
- 7 MR. HAGLER: If this is, at 10A. The back of the
- 8 pool. The cul-de-sac is on Crockete Lane. I live in a blue
- 9 area, not in a yellow, but I still get dropped cell
- 10 coverage. So, I live there. Okay?
- 11 EXAMINER: Okay. Thank you. Thank you.
- MR. HAGLER: Okay. So, I just wanted to --
- 13 EXAMINER: I appreciate the orientation.
- MR. HAGLER: This helps me -- Yes. So, as I said,
- 15 I took these pictures and I made this overview so you have a
- 16 reference of where I'm standing. There's a lot of these
- 17 that see pictures but you, you can't place it in the real
- 18 world. So, with that, that was my --
- 19 EXAMINER: Can I just ask you on the triangle. I
- 20 know this is --
- MR. HAGLER: Yes, ma'am.
- 22 EXAMINER: In looking on the first one, photos 1
- 23 and 2 --
- MR. HAGLER: Yes. Yes, ma'am.
- 25 EXAMINER: The, the triangle's not indicating a

- 1 direction. It just --
- MR. HAGLER: No. No. I just needed a symbol.
- 3 EXAMINER: Okay. I Just wanted to make sure.
- 4 MR. HAGLER: I could have pointed. I work --
- 5 EXAMINER: No. It's fine.
- 6 MR. HAGLER: I work for the Department of Defense.
- 7 We like triangles. It was just, I said do I put in there,
- 8 no. It had nothing to do --
- 9 EXAMINER: Okay.
- 10 MR. HAGLER: In reality, they should turn 180 if I
- 11 was doing it pointed.
- 12 Ex: Right. Because you already said that you
- 13 were facing --
- MR. HAGLER: Yes.
- 15 EXAMINER: -- looking down at the tennis courts.
- MR. HAGLER: So, okay?
- 17 EXAMINER: Okay. Thank you.
- 18 MR. HAGLER: Okay. So, what I did going to 74B,
- 19 and I explained it below, is I took photo 1A on that date.
- 20 On the date of the --
- 21 EXAMINER: Which was that, what's the date?
- 22 MR. HAGLER: On 26 July, which was the day of the
- 23 balloon test, I took photograph 1A.
- 24 EXAMINER: July 26th was the balloon test.
- MR. HAGLER: Was the balloon test.

- 1 EXAMINER: Okay.
- MR. HAGLER: When I took it, I took it to actually
- 3 see the best view of the balloon. That's why it's kind of,
- 4 if you don't really get an idea of what I'm looking at, the
- 5 lower part of it, you actually see the end of the fence but
- 6 it's, my focus was what's the tower because this was
- 7 provided to our membership. They know what our property
- 8 looks like. So, that's why I just cropped it in for those
- 9 who could not be there. So, that's why that's a tight shot
- 10 which is why, I'll point later, I did photo 2 so you get an
- 11 idea of the, where, what you're looking at. I took photo
- 12 1A.
- 13 EXAMINER: Uh-huh.
- MR. HAGLER: And the B I have a balloon to, again,
- 15 provide our membership of what a cell tower might look like.
- 16 I'm not a fancy. I just put it into PowerPoint. I added a
- 17 line, which is in 1B, of what, because the top of the
- 18 balloon is 125 feet. Obviously, the pole would go all the
- 19 way to the ground. So, that's what 1B. I added that
- 20 annotation, that line. That is me adding a line.
- 21 EXAMINER: But it's not drawn to scale. It's not
- 22 --
- 23 MR. HAGLER: It is drawn from the top. If, I
- 24 understand the balloon was six feet wide --
- 25 EXAMINER: Okay.

1 MR. HAGLER: That balloon, I didn't touch anything

- 2 it's, so the balloon, so it's actually less at the top
- 3 because the line is about the width of the balloon. So, in
- 4 theory, yeah. It's not to scale, ma'am.
- 5 EXAMINER: Not to scale. Thank you.
- 6 MR. HAGLER: It's, it's from location. Height
- 7 location.
- 8 EXAMINER: Okay.
- 9 MR. HAGLER: Yes. That's what it was. It wasn't a
- 10 width because I didn't know it was six feet because I only
- 11 saw it in the air. So, okay?
- 12 EXAMINER: I'm just clarifying to make sure
- 13 that --
- MR. HAGLER: Yes. And those were my first two
- 15 little paragraphs explaining what I did, and that I took the
- 16 picture that, in recognizing coming here. Because I did
- 17 such a close up, you don't really get an idea of where it
- 18 stands on the property, and also looking at the, your, the
- 19 staff report, you kind of get different pictures. But, I, I
- 20 took photograph 2 on the 28th which actually shows what the
- 21 whole area looks like, and I did see --
- 22 EXAMINER: September 28th?
- 23 MR. HAGLER: Yes. So, so, you would get a full
- 24 perspective. The staff reports, photos, shows various
- 25 things at the site. So, this one was just to provide you

1 another orientation perspective of what you're looking at,

- 2 and you get a better feel, potentially, of the hill. They
- 3 were saying that is a low point. You see where the
- 4 basketball court is which is already above the tennis
- 5 courts. So, it's just a perspective for you.
- 6 EXAMINER: So, you're kind of standing where? At
- 7 the top of this hill?
- 8 MR. HAGLER: I am, I'm standing right in front of
- 9 the club house. I did not --
- 10 EXAMINER: Oh. Okay.
- 11 MR. HAGLER: I'm standing right at the entrance of
- 12 the club house. That's why I said where the little start is
- 13 on 74A. I'm literally standing outside the door. 1 and 2
- 14 were all taken at the same location just so you know what
- 15 you might see.
- 16 EXAMINER: Okay. And the printing on these
- 17 documents, you, those, those are your words?
- MR. HAGLER: Those are my words. Right.
- 19 EXAMINER: Okay.
- 20 MR. HAGLER: For fo, for someone who saw this
- 21 goal, what is this from? Who did it? So --
- 22 EXAMINER: This makes your work clear that you--
- 23 MR. HAGLER: Yes, ma'am. This is all my work.
- 24 EXAMINER: Okay.
- MR. HAGLER: Okay? Follow and to provide, that

1 was from the front. I was curious what this would look like

- 2 from while you're sitting on the hill behind --
- 3 EXAMINER: Uh-huh.
- 4 MR. HAGLER: -- the pool which, again, on A is
- 5 where those chairs are.
- 6 EXAMINER: Uh-huh.
- 7 MR. HAGLER: So, there is a slight hill. So, I
- 8 took photo 3A on the 26th right after I took the picture in
- 9 the front. I went to the back, took the same picture which
- 10 you see the balloon there and then 3B. I just added a
- 11 vertical line to get an idea of what an, you know, what you
- 12 might see as far, yes. That's what a pole could look like.
- 13 I have no expertise on what it actually looks like.
- 14 EXAMINER: Right. That's not, not drawn to scale
- 15 as well. Okay.
- 16 MR. HAGLER: It's not drawn to, with scale. It's,
- 17 it's connected from the top sort of thing.
- 18 EXAMINER: Yeah.
- 19 MR. HAGLER: I didn't, yeah. I did not --
- 20 EXAMINER: Okay.
- 21 MR. HAGLER: -- manipulate the thing and then for
- 22 the same thing because you're only seeing the back of the
- 23 club house, I wanted to provide a perspective, a broad
- 24 perspective, which is photo 4 which I took on the 28th on
- 25 Wednesday, just standing at the top of the hill. Because,

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l as you can see, we're moving the chairs away. We haven't
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- 2 put them quite away. So, they're laying on the deck and
- 3 along with an explanation that I did all this myself.
- 4 EXAMINER: Again, those are the paragraphs that
- 5 you put on that --
- 6 MR. HAGLER: Yes. Those are my words.
- 7 EXAMINER: Those are your words. Okay.
- 8 MR. HAGLER: Okay?
- 9 EXAMINER: All right.
- 10 MR. HAGLER: Okay. There was that. I wanted to,
- 11 make sure we're staying with pictures. While I was doing
- 12 that because I had read the staff report, and it included a
- 13 letter from, there was one concern. I did another thing,
- 14 and let me, may I present to you --
- 15 EXAMINER: Okay. Well, what are you, do you want
- 16 to give him, you have to provide --
- 17 MR. HAGLER: Okay.
- 18 EXAMINER: If you're going to ask.
- MR. HAGLER: Okay. How do we --
- 20 EXAMINER: Well, is this a new document?
- 21 MR. HAGLER: Yes. It's a new document.
- 22 EXAMINER: Okay. He needs to have a copy.
- MR. HAGLER: Okay. This is mine.
- MR. DONOHUE: This belongs to me?
- MR. HAGLER: Yes. Okay.

1 EXAMINER: You need to bring one up, and I'll mark

- 2 it.
- 3 MR. HAGLER: Okay.
- 4 EXAMINER: Then you can tell me about it.
- 5 MR. HAGLER: I'll learn this. That's why I was
- 6 going last.
- 7 EXAMINER: So, we'll mark this one 76A, B, and C.
- 8 MR. HAGLER: A, B, and C.
- 9 EXAMINER: 76A, B,
- 10 MR. DONOHUE: This may look familiar to you, Madam
- 11 Chair since it's the --
- 12 EXAMINER: It does.
- MR. DONOHUE: We're still the wrong way.
- 14 EXAMINER: Oh.
- MR. DONOHUE: No object.
- 16 EXAMINER: Okay. Oh. I see. But there's a
- 17 little bit of change. There's the, okay.
- 18 MR. HAGLER: Yeah.
- 19 EXAMINER: All right. So, what is 76A?
- 20 MR. HAGLER: Okay. In looking through the
- 21 letters, there was one comment which was a concern which you
- 22 had discussed earlier. The gentleman had four comments --
- 23 EXAMINER: Uh-huh.
- MR. HAGLER: -- about what concerns, and just as
- 25 a, it's not a way to answer number 1 but it would provide

1 some background towards number 1 which was he could see the

- 2 tower. I just wanted to provide some information for
- 3 consideration. I'm not disputing his but I'm providing some
- 4 basic information. So, what I did to provide it. Again, I
- 5 took the same Google Earth that I had. It was the same
- 6 shot, and I, I moved some dots around, and I'll explain to
- 7 you what I did just to maybe fill in the questions in the
- 8 other testimony. So, what I did, the person who wrote this
- 9 letter is lot 6.
- 10 EXAMINER: Right.
- 11 MR. HAGLER: The person is lot 6. And so, what I
- 12 just wanted for my own understanding and to provide for you
- 13 for consideration, and I'm not making things. I took a
- 14 picture looking that way, too. We've said there were trees
- 15 around the property, well, what the trees look like. So, I
- 16 took one standing on the pool deck facing that way and then
- 17 I went to the street. I did not go onto anyone's property.
- 18 So, I can't say what they can or cannot see but my point
- 19 was to just show you that there are trees there and what
- 20 type of trees. So, that was whatever number that is A?
- 21 EXAMINER: Uh-huh.
- MR. HAGLER: Okay. Then, if you go to B. Again,
- 23 I took this on the 28th of September.
- 24 EXAMINER: Okay.
- MR. HAGLER: And I'm standing on the deck just

- 1 looking just pointing out that those are evergreens. I
- 2 guess they're evergreens. I'm not a tree expert but there
- 3 are trees around the property. That's all I was pointing
- 4 out to where this house is, and then on, on C, I just took
- 5 some other shots, identified it but I make the comment, my
- 6 last comment there is that I have no commoner information to
- 7 provide you on whether the resident will or will not see the
- 8 top of the tree. I'm not making a statement that he is
- 9 wrong or right. I'm just saying that there are trees, that
- 10 you don't get, just seeing the letter that there are trees.
- 11 EXAMINER: Okay.
- MR. HAGLER: That, that was all my comment there.
- 13 Was just to give you for consideration for the better and
- 14 different here.
- 15 EXAMINER: Okay. And just so that we're clear,
- 16 these, you took these photos --
- 17 MR. HAGLER: I took these.
- 18 EXAMINER: -- and I think you, you've identified
- 19 the dates --
- MR. HAGLER: Yes.
- 21 EXAMINER: -- and the words --
- MR. HAGLER: Yes.
- 23 EXAMINER: -- and the pictures accurately, you
- 24 reflect.
- MR. HAGLER: Yes.

- 1 EXAMINER: What?
- 2 MR. HAGLER: Yes. Yes, ma'am.
- 3 EXAMINER: You saw and, okay. And the first one
- 4 is from Google --
- MR. HAGLER: Yes. It's from the same Google Earth
- 6 as the previous exhibit.
- 7 EXAMINER: You pulled that a couple of days ago.
- 8 Correct?
- 9 MR. HAGLER: Yes. I pulled them on Wednesday.
- 10 EXAMINER: Same as the other exhibits in five.
- 11 MR. HAGLER: Yes. Yes. I, I did those on
- 12 Wednesday, I did the, I pulled from Google Earth. I did all
- 13 of Exhibit 74, and I did photo 1 for this one, and I forgot
- 14 I should take the other perspectives so I did it the next
- 15 day.
- 16 EXAMINER: Okay.
- MR. HAGLER: Just to have that. Just to give you
- 18 information to consider.
- 19 EXAMINER: Okay.
- 20 MR. HAGLER: Okay? Pass those new information, I
- 21 was just going to fill in some other comments that people
- 22 made. As was commented, we need the cell coverage. I
- 23 represent that from people at the pool and also as a
- 24 neighbor, I agree with the other statements that, and the
- 25 map, the exhibit agrees. We're in a tough area. I have a

- 1 land line at home just because of that in addition to my
- 2 cell but you've heard enough of that we need cell coverage.
- 3 Yes. We agree with that. It was pointed out of providing
- 4 the neighborhood information that this doesn't sneak upon
- 5 you and nobody heard about it. That's why there aren't 100
- 6 people here. As soon as this started, we were approached by
- 7 T-Mobile, and we understood what they were talking about. I
- 8 said I'd immediately approached the three closest property
- 9 members which happen to be Twin Farms members which are lots
- 10 1, 2, and 11 to make them aware and throughout all of this,
- 11 I didn't tell anyone you have to say this. Do what you
- 12 believe, you know, and I said I don't, I don't need to twist
- 13 arms. Whatever you want to know or know, let me know. All
- 14 those property owners and everyone had asked basically the
- 15 same questions, how's the tower? Safety. All of the issues
- 16 that were discussed this morning. And I provide them
- 17 information that I actually got from these, all the
- 18 documentation you received, and I've never heard anyone say
- 19 I'm opposed to it but that's whether you, but I'm just
- 20 saying they were made aware oh, since 2008. Prior to this
- 21 hearing, and you heard about the balloon test, the community
- 22 meeting, all of that. As being a member of Crockete Lane
- 23 behind there, I provided the same information to that
- 24 association, to our board chair. So, those people knew
- 25 about it. I'm just saying we let as many people know about

- 1 what was going on, especially the hearing to let them speak
- 2 their peace. Finally, I did, just to make sure, because, you
- 3 know I'm trying to be as honest as I can, on your site map
- 4 there, I physically walked across the street because I do
- 5 not know them, and I --
- 6 EXAMINER: What map are you looking at?
- 7 MR. HAGLER: I'm on Z1.
- 8 EXAMINER: Uh-huh.
- 9 MR. HAGLER: And I physically rang the doorbell
- 10 for lots 13, 14, and 15, which were cited in the offset.
- 11 EXAMINER: And just before you go on just so, let
- 12 me just, when you say you're talking about lots 13, 14, and
- 13 15, that's what's actually denoted. You have to go to Z2 to
- 14 know what the, and actually, they do correspond with the
- 15 right lot number. So --
- MR. HAGLER: Yeah.
- 17 EXAMINER: They actually are, oh. No They're
- 18 not. 13, 14, and 15. No. They're --
- 19 MR. HAGLER: Right.
- 20 EXAMINER: They're different, different lots. So,
- 21 13 would be true lot on the vicinity map is lot 26.
- MR. HAGLER: Right.
- 23 EXAMINER: 14 is lot 27, and 15 is lot 28.
- 24 Correct?
- MR. HAGLER: Right. I, I did notice the legal

1 property as put in the hearing is the legal property but the

- 2 staff report and all these have a slightly different. It
- 3 happens for 1 and 2, they're the correct. But, yes.
- 4 EXAMINER: They're correct. That's right.
- 5 MR. HAGLER: Same as 6, as I think 64.
- 6 EXAMINER: Right.
- 7 MR. HAGLER: In any event, I physically went to
- 8 these houses, trying to be a good neighbor, and they were
- 9 all home, and I said, I introduced. I wasn't selling
- 10 siding, and I said are you, did you get that example?
- 11 EXAMINER: Well, you can't really tell me what
- 12 they said. I just need to know --
- MR. HAGLER: I'm just saying --
- 14 EXAMINER: -- that you gave them notice.
- MR. HAGLER: I gave them notice.
- 16 EXAMINER: Okay.
- MR. HAGLER: They had received the thing. I did
- 18 provide them with a description of what it was talking
- 19 about.
- 20 EXAMINER: Okay.
- 21 MR. HAGLER: They, they didn't quite understand
- 22 what they had.
- 23 EXAMINER: Okay.
- MR. HAGLER: I just wanted to tell you --
- 25 EXAMINER: You just gave them notice.

- 1 MR. HAGLER: I gave them notice.
- 2 EXAMINER: Okay. And you were given them notice
- 3 on behalf of the board?
- 4 MR. HAGLER: I was part of Twin Farms. Yes.
- 5 EXAMINER: Twin Farms. Okay.
- 6 MR. HAGLER: Yes. I just, so people were aware.
- 7 EXAMINER: Okay.
- 8 MR. HAGLER: And that's what my point there. I, I
- 9 would say I could answer any question about the pool. I
- 10 don't know you have something or Ed wants to. I could tell
- 11 you anything you would like to know that hasn't
- 12 been --
- 13 EXAMINER: Well, I really only need information as
- 14 it relates to the criteria.
- MR. HAGLER: Okay.
- 16 EXAMINER: And I think that you've covered that
- 17 need.
- 18 MR. HAGLER: Right. Okay. So --
- 19 EXAMINER: You've talked about notice.
- MR. HAGLER: Right. The notice.
- 21 EXAMINER: You've given me perspective in terms,
- 22 with your pictures in terms of, you know, the balloon test.
- MR. HAGLER: All right. I think they're willing
- 24 to, I mean, within the staff report just, there were, there
- 25 were some comments on page 3 of the staff report. It talks

- 1 master plan conformance and that, you know, the wide oak
- 2 master plan wants the area to be true and livable community,
- 3 protecting straight and positive attributes, and I just, you
- 4 know, as was said, a swim club does provide that. We've
- 5 also received, if you needed justification of why we, we
- 6 approved the area vis town houses or anything else. I'm
- 7 just saying Montgomery County has granted us grants in the
- 8 summer for drug programs. So, they recognize, recognize our
- 9 viability. That we do serve the community not just us. So,
- 10 I'm just, --
- 11 EXAMINER: Okay. Well, I don't --
- MR. HAGLER: And you obviously don't need any,
- 13 I --
- 14 EXAMINER: Yeah. I'm not, yeah, I'm not sure I
- 15 call that relates.
- 16 MR. HAGLER: Yeah. I'm just probably rambling but
- 17 --
- 18 EXAMINER: Yeah.
- 19 MR. HAGLER: Yeah. She said yeah. I would --
- 20 EXAMINER: I didn't meant that. I'm sorry.
- 21 MR. HAGLER: Then I will stop rambling because --
- 22 EXAMINER: I didn't mean to imply that you were
- 23 rambling. You're not rambling.
- MR. HAGLER: My wife says I ramble. I just --
- 25 EXAMINER: Okay.

- 1 MR. HAGLER: I'm trying to help you. I have, I
- 2 guess, nothing directly unless there are questions from you
- 3 or Ed that I can answer.
- 4 EXAMINER: Yeah. I don't know that I have any
- 5 questions.
- 6 MR. HAGLER: Okay. I'm just --
- 7 EXAMINER: I mean the only thing that I've heard,
- 8 I mean, I think you were pretty thorough in, in what it is
- 9 you wanted to portray and probably could talk for longer but
- 10 --
- MR. HAGLER: But, I don't want --
- 12 EXAMINER: -- you know, with the criteria. I know
- 13 that I heard testimony, and I don't know that his, how
- 14 relevant it is with regards to the financial status of the,
- 15 the club. I don't, that doesn't have any bearing on--
- MR. DONOHUE: Not in the criteria.
- 17 EXAMINER: No. It's not in the criteria. So, I'm
- 18 just --
- MR. HAGLER: Okay.
- 20 EXAMINER: I heard that but just so you know that
- 21 it's slightly irrelevant.
- 22 MR. DONOHUE: It doesn't matter.
- MR. HAGLER: That's okay.
- 24 EXAMINER: Unless, unless there's been a change,
- 25 Mr. Donohue.

1 MR. DONOHUE: No. No. But let me, let me ask

- 2 this. Actually, two things. Jay, how long has this swim
- 3 club been there?
- 4 MR. HAGLER: We opened our doors on, let me get
- 5 the date, in 1958 --
- 6 EXAMINER: Uh-huh.
- 7 MR. HAGLER: On August, I wrote it down somewhere.
- 8 I think August 6th. Oh. I guess --
- 9 EXAMINER: August 1958 --
- 10 MR. HAGLER: 1958.
- 11 EXAMINER: -- is sufficient.
- MR. HAGLER: Yeah. It's August 1958.
- 13 MR. DONOHUE: And with some modifications to the
- 14 special exception over the years. Correct?
- MR. HAGLER: Yes. Yes.
- 16 MR. DONOHUE: All right. So, my question is this.
- 17 Is the proposed facility as described, the compound, the
- 18 pole, the whole proposal that's before the hearing today, is
- 19 the proposed facility consistent and compatible with the
- 20 continued operation fo the swim club?
- 21 MR. HAGLER: Yes. Yes. Where, where it is, it's
- 22 less grass that I have to mow, I guess. No. It will not
- 23 impact pool operations. It will, it's that part, it's, it's
- 24 the least visible, lowest part. We don't use that part.
- 25 So, it, it accommodates, it has no affect on our operations.

- 1 EXAMINER: Okay.
- MR. DONOHUE: That's all I have. Thanks.
- 3 EXAMINER: Well, thank you very much for your
- 4 testimony and pictures and for coming out.
- 5 MR. HAGLER: Thank you for allowing me to babble.
- 6 EXAMINER: No problem. Okay. Nobody else in the
- 7 audience indicating they have a burning desire to come up
- 8 and testify? No? Okay. I don't know about you, though,
- 9 but how much more time do you think you need?
- 10 MR. DONOHUE: Well, as I mentioned, Madam Chair,
- 11 I'm not going to call an additional witness.
- 12 EXAMINER: You're not going to. Right.
- MR. DONOHUE: I have some conclusory remarks. We
- 14 maybe have some housekeeping we talked about.
- 15 EXAMINER: Right.
- MR. DONOHUE: But I have, I have possibly five
- 17 minutes.
- 18 EXAMINER: Okay. And just, just so that I
- 19 understand because I'm trying to, I mean, it's 1:15. I
- 20 don't know about anybody else being hungry. The Court
- 21 Reporter, are you okay?
- 22 CR: I'm okay.
- 23 EXAMINER: You sure? Okay. But, in terms of, I
- 24 guess, maybe you'll summarize. You've gone through and made
- 25 sure we've hit all the criteria?

- 1 MR. DONOHUE: Well, yes.
- 2 EXAMINER: I didn't know if you want, if there was
- 3 anything you wanted to review and see and make sure.
- 4 MR. DONOHUE: No. If you'd like to talk about the
- 5 housekeeping? Maybe that'll be a good use of time if
- 6 there's anything that I owe you. I know the Tower Committee
- 7 talked about that earlier.
- 8 EXAMINER: Yes. Let me find my list. Right. The
- 9 Tower Committee, like we say committee, it's T. Isn't it
- 10 corty (phonetic sp.)?
- MR. DONOHUE: TTFC.
- 12 EXAMINER: T. Well --
- MR. DONOHUE: There might be an extra T or an
- 14 extra G in there but.
- 15 EXAMINER: Okay.
- 16 MR. DONOHUE: That's why Tower Committee is
- 17 better.
- 18 EXAMINER: Yeah. I, what I'm looking for is, I
- 19 think you understand what I'm looking for.
- MR. DONOHUE: I do.
- 21 EXAMINER: We have the 2008 recommendation from
- 22 Mr. Hunnicutt which is, you know, outlines the co-location
- 23 and the implications --
- MR. DONOHUE: Right.
- 25 EXAMINER: And there isn't one for 2011. All you

- 1 provided was the minutes --
- 2 MR. DONOHUE: Right.
- 3 EXAMINER: Which talk about, I guess, he was there
- 4 and said there haven't been any changes but is there
- 5 documentation from him as a matter of course because in your
- 6 June 15th letter, I don't know what number it was but it's
- 7 on the second page, you talked about that they found a need,
- 8 and I didn't know if you were talking about the 2008 or, so,
- 9 I need updated information. So, you were going to find that
- 10 from Mr. Hunnicutt if there is.
- 11 MR. DONOHUE: Right.
- 12 EXAMINER: Get him either, if there is, supply it.
- 13 If there isn't, acknowledge that there isn't or that he's
- 14 adopting the language of the 2008 and supply that.
- 15 MR. DONOHUE: Right.
- 16 EXAMINER: Is that clear?
- 17 MR. DONOHUE: It is.
- 18 EXAMINER: Okay. Then, of course, we already
- 19 talked about leaving the record open the 15 days for anybody
- 20 that wants to comment on the amendments after the 26th, the
- 21 statement of justification as well as the water quality plan
- 22 which came in after. I think it was the 23rd. So, any of
- 23 those comments can be received and where's my calendar? We
- 24 can go off the record for a minute. Okay.
- 25 (OFF THE RECORD)

- 1 (ON THE RECORD)
- 2 EXAMINER: All right. We have. We would start,
- 3 giving 15 days would fall on a Saturday. Right?
- 4 MR. DONOHUE: Today is 30?
- 5 EXAMINER: Yeah. Because day is the 30th.
- 6 MR. DONOHUE: So, carry it over to Monday.
- 7 EXAMINER: Yeah. So, that would be the 17th. My
- 8 calendar says it's National Boss Day. Do you think that's a
- 9 national holiday? Okay. So, the 17th --
- 10 MR. DONOHUE: Probably up for debate in my office.
- 11 I don't know.
- 12 EXAMINER: Okay. So, the record will close on the
- 13 17th.
- MR. DONOHUE: Okay.
- 15 EXAMINER: For any comments with regards to any of
- 16 the changes, the amendments to the petition, and you said
- 17 you wanted five days to respond. So, if the record closes
- 18 on the 17th, you need the 18th, 19th, 20th, 21st, and fall
- 19 over to the next Monday?
- MR. DONOHUE: The 22nd?
- 21 EXAMINER: Well, the 22nd is a Saturday.
- MR. DONOHUE: Got you. Okay.
- 23 EXAMINER: So, the 22nd would be the fifth day.
- 24 So, we're talking about the 24th?
- MR. DONOHUE: Well, if it's up to me, I'll take

- 1 that Friday, that 21.
- 2 EXAMINER: You only want, yeah. It's up to you
- 3 how many, how many days you want. So, actually, the record
- 4 won't close on the 17th, it's just that's the last time
- 5 somebody can comment.
- 6 MR. DONOHUE: Right.
- 7 EXAMINER: And then you'll have until the 21st to
- 8 provide any responses to any comments.
- 9 MR. DONOHUE: Yes.
- 10 EXAMINER: If you don't get any, then the record
- 11 will close on the 21st.
- MR. DONOHUE: Yes.
- 13 EXAMINER: So, you're good with four days response
- 14 time. Okay?
- MR. DONOHUE: Yes.
- 16 EXAMINER: Okay. Record. And you indicated that
- 17 that time, the shot clock is tolled.
- MR. DONOHUE: Yes.
- 19 EXAMINER: You run out of time. So, okay.
- 20 MR. DONOHUE: Madam Chair, I can submit my
- 21 conclusion and summary in written form if you'd like.
- 22 EXAMINER: If it's going to take a short amount of
- 23 time. You can still do that if you want to submit it in
- 24 written form but, you know, it's certainly tying up, you
- 25 know, doing it right now. Verbally is fine, too.

- 1 MR. DONOHUE: Okay.
- 2 EXAMINER: I, the staff report, I just have to
- 3 look and I can certainly just submit these in my, in my
- 4 recommendation. There are, there are a few errors in the
- 5 sense of they have the wrong attachment number. So, it's--
- 6 MR. DONOHUE: Right.
- 7 EXAMINER: -- certainly not fatal but I did notify
- 8 them, and I don't know if she made, she made the corrections
- 9 because I just got this.
- MR. DONOHUE: You got a revised staff report?
- 11 EXAMINER: I don't know if it's revised. That's,
- 12 that's what I'm saying. It shouldn't really be a revised.
- 13 It would just be, I guess it would be revised. You're
- 14 right. Just a few items. Get my --
- MR. DONOHUE: Is yours dated?
- 16 EXAMINER: Pardon me?
- MR. DONOHUE: Does yours have a date on it?
- 18 EXAMINER: Mine says September 27th. I believe
- 19 it's, it's, yes. It has nine attachments. Okay. It's, I
- 20 did find my list. Did they correct the, oh. Well, the
- 21 first thing that I noted on the first page of the staff
- 22 report was it had the wrong case number. It said 16, 2816.
- MR. DONOHUE: Yes.
- 24 EXAMINER: It's, the record were actually set but
- 25 it's 2818. Right?

- 1 MR. DONOHUE: Right.
- 2 EXAMINER: Then on page 2, paragraph 2, it looks
- 3 like they did change that. Okay. Thanks. It looks like
- 4 they did change that because I noticed that it was, it
- 5 should be 1 and not 3. It was attachment 3. So, that's
- 6 been corrected. Page 3, paragraph 1. They didn't correct
- 7 that one. The attachment number should be 3 and not 5. I
- 8 mean, you can certainly look at what their referencing and
- 9 look at the attachment. It's not, certainly not fatal, and
- 10 with regards to the master plan, I thought they had the
- 11 wrong year but it's the 1997 map to --
- MR. DONOHUE: Uh-huh.
- 13 EXAMINER: -- or 1989? Get it down and out of the
- 14 way here. '97. I think that page, paragraph 4 on page 3.
- 15 Yeah. It says 1989. What I have says 1997.
- MR. DONOHUE: Okay.
- 17 EXAMINER: And those were the only notations that
- 18 I saw. Otherwise, it's, you know, the same with what the,
- 19 something I was sure about that was clear. Oh. As we
- 20 speak. This is what she was handing me. It just came by
- 21 email, and it's from Renee Kamen. Attached are the
- 22 corrections to the attachment references. So, it looks like
- 23 --
- MR. DONOHUE: I hope that she corrected our
- 25 recommendation.

1 EXAMINER: Well, I don't think that happened.

- 2 Okay.
- MR. DONOHUE: Did she have a copy or it'll just be
- 4 --
- 5 EXAMINER: No. Here's your copy.
- 6 MR. DONOHUE: Okay.
- 7 EXAMINER: So, I'll just mark that. What's,
- 8 what's the exhibit number? It's 70. I'll mark it. Let me
- 9 make sure there's no, I'll make it 70A.
- MR. DONOHUE: I'm sorry.
- 11 EXAMINER: Well just mark what I just handed you
- 12 70A.
- MR. DONOHUE: Got it.
- 14 EXAMINER: And it's just the notifications. Okay.
- 15 I think that, unless you have other notes.
- 16 MR. DONOHUE: No. I think we addressed the, the
- 17 photos. I think Mr. Hagler explained all those. When they
- 18 were taken.
- 19 EXAMINER: Right.
- 20 MR. DONOHUE: What he took. We talked about what
- 21 we owe you. I think that's it.
- 22 EXAMINER: Okay. All right. So, you want to just
- 23 admit all the exhibits unless, I mean, you would like to --
- MR. DONOHUE: Right. We have no objections to--
- 25 EXAMINER: Any of the exhibits.

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1 MR. DONOHUE: No.
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- 2 EXAMINER: Okay. So, we are up to 75. So, the
- 3 Exhibits 1 through 75 and all their sub parts are hereby
- 4 entered into the record. Closing? Are you going to make a
- 5 closing statement or do you want to --
- 6 MR. DONOHUE: I'll be very brief. Let me, let me
- 7 give you some high, some sort of high notes from what we
- 8 heard from testimony, and I'd like to submit them, a letter
- 9 that addresses the criteria because there were some things
- 10 that came up that amplified what we gave you by way of
- 11 support for satisfying the criteria that occurs in the code
- 12 but you had three witnesses qualified as experts, and you
- 13 had, in chronological order, we had the site acquisition and
- 14 zoning expert who explained to us the site selection and
- 15 site search beginning with an attempt to co-locate on
- 16 structures that already have antennae or similar structures
- 17 that would allow or obviate a need for a new pole, and he
- 18 described in general terms what the area, what the site area
- 19 was and talked, in some detail, about the three sites that
- 20 were identified as potential candidates and then had to be
- 21 ruled out for various reasons. But beginning with co-
- 22 location, beginning with, for example, the idea that you
- 23 would use an existing support structure, tower structure for
- 24 co-location and then going down to things such as the
- 25 elementary school, the church steeple, and the distribution

1 pole. He went on to explain the site selection not finding

- 2 a co-location opportunity or having to rule out those three
- 3 potential sites and described some of the attributes that he
- 4 thought were positive attributes for new construction such
- 5 as size of site and, in particular, screening. He, when we
- 6 talked in more specific terms about the swim club, we
- 7 identified the heavy tree cover which his words, heavy tree
- 8 cover on the parcel, the size of the parcel, approximately
- 9 3.7 acres and, again, perimeter trees, and noted here and a
- 10 couple other witnesses noted the heavy tree cover on
- 11 Fairland Road. He went on to explain because he had
- 12 participated in both the community balloon fly, the balloon
- 13 test, and described for you how the phot simulations were
- 14 produced, talked about the vantage points where the photos
- 15 were taken, talked about the community meeting that he
- 16 participated in following the balloon test and explained the
- 17 outreach that was given both with the RF engineer, with the
- 18 site selection people, with Hillary Morrison, who has been
- 19 mentioned a few times here today and following that, we had
- 20 expert testimony from the RF engineer. The RF engineer
- 21 explained and, I think, gave compelling testimony about the
- 22 need, and he addressed the metrics that T-Mobile uses and
- 23 explained that the other carriers use similar metrics for
- 24 things such as blocked calls, dropped calls, and in
- 25 particular, E911 or the enhanced 911 requirements, and

- 1 described how those numbers were derived using adjacent
- 2 sites and pulling information, literally puling the data
- 3 from the adjacent sites to extrapolate what they felt were
- 4 the 911 needs in the area. I think it's fair to say that
- 5 the assertions of need, the explanation of need given by the
- 6 RF engineer was amply supported by the 30 some letters in
- 7 support and a lot of testimony that you heard from the
- 8 neighbors including some pretty compelling testimony from
- 9 parents of teenagers, and I was listening very carefully to
- 10 that. I think that the statements of need truly were
- 11 uncontroverted and that's the reason that the Tower
- 12 Committee was quick to recommend approval once the setback
- 13 issue was resolved. More on that in just a moment. But
- 14 when it comes to establishing a need for site, that's, it's
- 15 often a delicate issue because we talk about things like in
- 16 building and in vehicle and those kinds of things, and in
- 17 some parts, that's a business decision but when we're
- 18 talking about 911, when we're talking about blocks and drops
- 19 and the inability to reach our children or others and
- 20 particularly in need of emergency care, it's really very
- 21 critical, and I think Mr. Maloney's testimony about the
- 22 safety and then the issues attended to a lack of coverage
- 23 there were very, really very compelling. In addition, we
- 24 had the civil engineer explain the site selection, and I
- 25 think, gave very compelling testimony about, in his words,

1 the heavy, dense tree cover on the site, the perimeter trees

- 2 particularly in the foreground and the southern portion of
- 3 the property and the, in his words, the, the inability to
- 4 even see the site from Fairland Road given the tree cover in
- 5 the foreground. Mr. Shabshab has had a number of sites
- 6 before this board an many other jurisdictions and in his
- 7 words, it's the best possible solution given the
- 8 circumstances. He described the size of the parcel in
- 9 relation to other parcels and, again, topography and tree
- 10 cover has being positive attributes for the site. Three of
- 11 the witnesses talked to, because I asked them, about the
- 12 design, the flag pole design as a stealthing solution. We
- 13 talked about the compound, it's orientation toward the road,
- 14 and the screening of the compound with the board on board
- 15 fence and landscaping in the foreground so that we literally
- 16 have a belt and suspenders, not literally, figuratively,
- 17 have a belt and suspenders approach with the board fence and
- 18 the, and the tree cover, and I think the photo simulations
- 19 and the testimony of the neighbors amply support the, the
- 20 aesthetics of the case. What you have here, is a little
- 21 under four acre parcel that's heavily treed. We have a very
- 22 responsible landlord who's done well to keep the tree cover
- 23 in. It's probably the reason it's very successful and very
- 24 well liked and compatible use in the neighborhood. So, that
- 25 when there are swim meets, when there are parties, when

- 1 there are noises coming from the club, the trees have a
- 2 positive and a mitigating impact from things like cars and
- 3 car lights and starting guns. Likewise, those trees will
- 4 help and will amply screen the proposed facility which I
- 5 think the photographs demonstrate. With regard to setbacks,
- 6 I will tell you that the one to one setback requirement has
- 7 been on the books for a long time, and Mr. Shabshab
- 8 explained to you that that has to do with an anecdotal
- 9 thought that well, if in the unforeseen circumstance it
- 10 would fall, literally fall, head to toe, in all
- 11 circumstance, it would be best if it fell on the landlord's
- 12 property making it his problem, her problem, and not the
- 13 neighbors problem. Subsequent to that, in a case that I
- 14 handled in the up county area, there was a thought that
- 15 there ought to be some distance from budding property
- 16 owners, particularly those objecting to the application, and
- 17 it isn't a one to one setback, and it's literally an
- 18 arbitrary number. Three hundred was picked because it was a
- 19 little better than 500 and a little more than 100. That
- 20 code was amended to allow for, that 300 foot setback, to
- 21 allow for the butters to voice their concerns and say too
- 22 close, too visually obtrusive, too impactful of me as, as a
- 23 budding neighbor. In its wisdom, the counsel allowed for a
- 24 waiver requirement, not a variance, but a waiver, and the
- 25 waiver language is very clear, and I'm not going to repeat

1 it to you. The staff has done that. We've done it in our

- 2 pleadings. It speaks to visibility. It speaks to visual
- 3 impact, and if the applicant can demonstrate that a site can
- 4 be sited on the property in a less visually obtrusive
- 5 manner, it ought to be considered and considered for waiver,
- 6 and then it comes down to, let's face it, objectivity.
- 7 We're looking at whether the viability, the visual impact is
- 8 such that the board can agree that the applicant has met its
- 9 burden. The testimony of the neighbors, the abutters, and
- 10 the folks that are members of the club but also just members
- 11 of the community that the aesthetics had been satisfied on
- 12 its own is probably not enough for the Chair. I think the
- 13 Chair had to see the tree cover that you saw in the aerial
- 14 photos and the photographs so that the setback requirement
- 15 is, is something that it's, it's there. It certainly, it is
- 16 on the books but it's waivable under the circumstances.
- 17 This is, perhaps, the best circumstance for support of
- 18 waiver. I would agree with Mr. Shabshab. I don't think I
- 19 can recall a site that has such significant stealth
- 20 screening surrounding the property and then using a stealth
- 21 structure in the middle of the property. It's really a
- 22 pretty elegant solution in my humble opinion. Granted,
- 23 there are a number of setback requirements. Granted, we
- 24 have houses in proximity and, and closer than the 300 feet
- 25 but you heard very compelling testimony from several of

those folks that they have no objection, in fact, support

- 2 the application 1. Finances aside, I think what they've
- 3 come to the conclusion is this is a very compatible
- 4 application, and that's what I asked Mr. Hagler at the very
- 5 end there. Was it compatible given the functioning of the
- 6 swim club. I think the compatibility of aesthetics is
- 7 satisfied on the plans, on the landscaping, and on the
- 8 photographs but I asked about the functioning of the club
- 9 because that was really the only, in my mind, lose end.
- 10 With that Madam Chair, I will rest unless you have questions
- 11 for me.
- 12 EXAMINER: I do not.
- MR. DONOHUE: Thank you for your time.
- 14 EXAMINER: No. Thank you. I feel like we're
- 15 missing something else. All right. So, are you --
- 16 MR. DONOHUE: Well, records open. Right?
- 17 EXAMINER: Yeah. The records could open --
- 18 MR. DONOHUE: Yeah.
- 19 EXAMINER: You're going to, you want to submit a,
- 20 did you say you want to submit something in writing as well
- 21 or you're just --
- 22 MR. DONOHUE: Let me think about it.
- 23 EXAMINER: Yeah.
- MR. DONOHUE: Yeah.
- 25 EXAMINER: And if you do, just, you know, do it in

- 1 the time.
- 2 MR. DONOHUE: I talked longer than I anticipated.
- 3 EXAMINER: Well, it's, you know, the nature of the
- 4 beast.
- 5 MR. DONOHUE: It happens. That's right.
- 6 EXAMINER: It's always famous last words. Just
- 7 one minute.
- 8 MR. DONOHUE: Right. Right. I'll be
- 9 brief is the famous last words.
- 10 EXAMINER: That's the first thing they teach you
- 11 in law school.
- MR. DONOHUE: Yeah.
- 13 EXAMINER: It's never just a minute. Okay. I
- 14 think we have done everything. We are adjourned at 1:33 but
- 15 the record is still open until, it will close on October
- 16 21st.
- MR. DONOHUE: Yes.
- 18 EXAMINER: At (indiscernible). So, thank
- 19 everybody very much for coming out and hanging in there
- 20 until this long. Been here since breakfast. So, --
- MR. DONOHUE: Until after lunch.
- 22 EXAMINER: Take care.
- MR. DONOHUE: Thank you.
- 24 EXAMINER: All right. We're off the record.
- 25 Thank you.

- 1 (OFF THE RECORD)
- 2 (ON THE RECORD)
- 3 EXAMINER: Okay. We're back on the record at
- 4 1:35. It was brought to my attention that Exhibit 76A, B,
- 5 and C were not mentioned as being, when I admitted the
- 6 evidence. So, include that it goes up 1 through 76, A
- 7 through C, and just as a reminder, Mr. Hagler also asked
- 8 with regards to electronic copies of any exhibits.
- 9 MR. DONOHUE: Yes.
- 10 EXAMINER: You've already sent us one disc.
- MR. DONOHUE: Yes.
- 12 EXAMINER: But, if, if there's anything else, I
- 13 can't remember if there's anything that is missing, though.
- 14 You know, will you follow up on the tower.
- 15 MR. DONOHUE: You'd like it both electronic?
- 16 EXAMINER: Yeah. Yeah.
- 17 MR. DONOHUE: No problem.
- 18 EXAMINER: Yeah. It needs to be and if you have
- 19 the, your documents electronic.
- 20 MR. HAGLER: I have mine, too, me with along with
- 21 any other question you could have asked but --
- 22 EXAMINER: Is that, you have it with you?
- MR. HAGLER: -- with everything else. Oh. Yeah.
- 24 I brought it.
- 25 EXAMINER: Oh. Well, then why don't we enter it

- 1 now?
- MR. HAGLER: If you want to download it. I have
- 3 like --
- 4 EXAMINER: Oh. You have to change it to a
- 5 separate disc. Can you give us a separate disc?
- 6 MR. HAGLER: I, how we would like it, a disc, a
- 7 physical disc?
- 8 EXAMINER: A physical disc that will actually go
- 9 into--
- 10 MR. HAGLER: Okay. I will get you that.
- 11 EXAMINER: Okay. So --
- MR. HAGLER: Yeah.
- 13 EXAMINER: The record is open. So, you can send
- 14 that in --
- MR. HAGLER: Okay.
- 16 EXAMINER: -- with a cover letter --
- 17 MR. HAGLER: Okay.
- 18 EXAMINER: -- saying that I'm providing the
- 19 electronic--
- 20 MR. HAGLER: To, to the Board of Appeals.
- 21 EXAMINER: -- to the exhibits. Yes.
- 22 MR. HAGLER: To exhibit whatever it is.
- 23 EXAMINER: Yeah.
- MR. HAGLER: Okay.
- 25 EXAMINER: So that they'll make it part of the

- 1 record.
- 2 MR. HAGLER: Yes. Okay.
- 3 EXAMINER: And mark it.
- 4 MR. HAGLER: Yeah. I just brought, I've gone to
- 5 the park and planning commission hearing for permeability,
- 6 and they had screens up.
- 7 EXAMINER: Okay.
- 8 MR. HAGLER: So, had you wanted, I could have
- 9 projected it so I could --
- 10 EXAMINER: Just so long as whatever you gave today
- 11 --
- MR. HAGLER: Yep. Yep.
- 13 EXAMINER: -- you can send electronically --
- MR. HAGLER: Yes.
- 15 EXAMINER: -- would be excellent.
- MR. HAGLER: Yes. I will take --
- 17 EXAMINER: I don't know if the pictures, you know,
- 18 the--
- MR. HAGLER: They are the exact copy.
- 20 EXAMINER: Okay. There we go.
- MR. HAGLER: Yes. I have what I used to print it.
- 22 That was from my printout.
- 23 EXAMINER: Excellent. I'm glad you brought that
- 24 up. Thank you very much.
- MR. HAGLER: Thank you, ma'am.

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EXAMINER: Okay. We're off the record, again.
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 2
             MR. DONOHUE: No objection in case there's a
 3
    question.
              EXAMINER: Is there a question? Is there a
 4
 5
    problem?
 6
             MR. DONOHUE: Yeah. No. Thank you for your time.
 7
     I appreciate it.
              EXAMINER: Okay.
 8
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DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Office of Zoning and Administrative Hearings for Montgomery County in the matter of:

Petition of Twin Farms Club, Inc. and
T-Mobile Northeast, LLC

Special Exception Case No. S-2818

OZAH No. 12-01

By:

Dawn M. Bahnmiller, Transcriber